A NEW

GUIDE

FOR

CONSTABLES,

Headboroughs, Tythingmen, Churchwardens, Overseers and Collectors for the Poor, Surveyors for Amending the Highways and Bridges, with Directions for Keepers of Fairs and Markets, and Treasurers for the Relief of poor Maimed Soldiers and Mariners.

Containing not only whatsoever may be useful to them in the Execution of their several Offices, that is already Extant in any BOOK of this Kind.

But also

The Heads of all those Statutes which do concern any of the said Offices that have been since made in the Reigns of the late King *Charles*, King *James*, and their present Majesties, King *William* and Queen *Mary*; being the most Compleat of any Work of this Nature.

Collected by *J. P.* Gent.

London, Printed by the Assigns of *Richard* and *Edward Atkins* Esquires, And are to be sold by most Booksellers in *London*, 1698.

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THE

THE DUTY OF CONSTABLES, &c.

CHAP. I.

Of the Original, Office and Jurisdiction of High Constables, Petty Constables, Headboroughs, Borsholders and Tythingmen.

THE *Saxon* Christian King *Alfred* (King of *England*) for the more peaceable Government and Ease of his Subjects, divided this whole Realm of *England* first into Shires, then caused those Shires to be subdivided into Hundreds, Rapes, Ridings, Wapentakes; and divided these also into Tythings, Leets or Boroughs, and in all these Divisions were appointed Officers for the better preservation of the Peace, such are High Constables, Petty Constables, Headboroughs, Borsholders and Tythingmen; the Office of all these latter, is one and the same, only different in Title, according to the Custom of the Country; in

Middlesex, besides the High Constables of the Hundreds, they have Petty Constables and Headboroughs in the respective Parishes, and they are in number more or less, according to the greatness or smalness of the Parish; in *Kent* these Petty Officers of the Parishes are called Borsholders; but in *Hampshire*, and all the Western Parts, Tythingmen, and their Divisions of Parishes, Tythings; in *Sussex* the Hundreds are called Rapes; and in the North, Ridings and Wapentakes.

There was anciently in *England*, a great Officer called the High Constable of *England*, and he kept an Office (which is supposed to come hither with *William* the Conqueror out of *Normandy*) or Court, called the Constable's Court, or the Court of the High Constable, wherein he had Authority to hear and determine Contracts, touching Deeds of Arms out of the Realm, and to determine all things concerning War within the Realm; as Combats, Blazon, Armory, *&c.* but not to deal with Battel in Appeals, that belonging to the Common Law of the Land.

Amongst the rest of the *Conquerors* Laws, this is one, That if a *French-man* do Appeal an *English-man* of Perjury or Murder, the *French-man* may defend himself by *Battail*, which in English was then called *Earnest*, which Word we yet retain; and the Officer to see this performed, was the High Constable; but this Officer, Court and Practice, is long since dissolved.

The Etymology of this word *Constable*, proceeds from the old word Conning or Cyng, and Staple or Stable; the word Conning

or

or Cyng, signifies a King, and Stable, a Stay or Prop; which is as much as to say, the *Stay* or *Prop* of the *King*; that great Officer the *Constable* of *England*, having that Title given by reason of the great Authority that he had, was a principal Prop or Stay unto the Kings Government; from whence is this Title and Office of this Lower Constableship derived and continued (though with lesser Authority unto this hour) and is a Branch of that Original.

By the Statute of *Winchester*, made in the time of King *Edward* the First, these Constables of Hundreds were appointed to keep Watching and Warding, for the better keeping of the Peace, and prevention of Thieveries and Robberies, and apprehensions of Felons and Rogues, *&c.* and that the High Constables in every Hundred and Franchise, should take the view of Armor, *&c.*

Hereby it appears, that the Name of a *Constable* in an Hundred or Franchise, is an Officer to assist and support the King's Majesty in the Maintenance and Perservation of his Peace, within his Hundred or Franchise, and he is called the High Constable, in respect of the Constables or Petty Constables, and Headboroughs or Tythingmen, which be in the respective Towns, Villages, Parishes, or Precincts within his Hundred or Franchise under his Jurisdiction; and it is also the part and duty of these Inferiour Officers to execute the High Constables Office in his absence, in maintaining and keeping the Peace in their several Tythings and Limits, and in the High Consta-

bles presence to be aiding and assisting unto him.

The High Constables of every Hundred, or Rape, or Riding, are chosen by the Justices in each County, most usually at their General Quarter Sessions, or in their several Divisions. From the Justices they receive their Authority, and are by them again discharged of their Office as they shall see cause. At the entrance into their Office they take an Oath, the usual Form whereof followeth.

The High Constables Oath.

YOu shall swear, That you shall well and truly serve our Sovereign Lord the King, in the Office of a Constable. You shall see and cause His Majesty's Peace to be well and truly kept, and preserved according to your Power. You shall Arrest all such Persons as in your sight and presence shall ride or go armed offensively, or shall commit or make any Riot, Affray, or other Breach of His Majesty's Peace. You shall do your best endeavour (upon complaint to you made) to apprehend all Felons, Barretors, and Rioters, or Persons riotously assembled: and if any such Offenders shall make resistance [with force] you shall levy Hue and Cry, and shall pursue them until they be taken. You shall do your best endeavour, that the Watch in and about your Hundred be duly kept, for the apprehending of Rogues, Vagabonds, Nightwalkers, Evesdroppers, Scouts, and other suspected Persons, and of such as go armed, and the like; and that Hue and Cry be duly raised and pursued according to the Statute of Winchester, *against Murderers, Thieves, and*

and other Felons; and that the Statutes made for the punishment of Rogues and Vagabonds, and such other idle Persons as come within your Bounds and Limits be duly put in Execution. you shall have a watchful Eye to such Persons as shall maintain or keep any Common House or Place, where any unlawful Game is or shall be used; as also to such as shall frequent or use such Places, or shall use or exercise any unlawful Games, there or elsewhere, contrary to the Statutes. At your Assizes, Sessions of the Peace or Leet, you shall present all and every the Offences done contrary to the Statutes made 1 Jacobi, 4 Jacobi, and 21 Jacobi Regis, to restrain the inordinate haunting and tippling in Inns, Alehouses, and other Victualling houses, and for repressing of Drunkenness; you shall there likewise true Presentment make of all Bloodsheddings, Affrays, Outcries, Rescous, and other Offences committed or done against the Kings Majesty's Peace within your Limits: you shall once every Year, during your Office, present at the Quarter Sessions all Popish Recusants within your Liberty, and their Children above nine, and their Servants, (scil. their Monthly Absence from the Church) 3 Jac. 4. You shall well and duly execute all Precepts and Warrants to you directed from the Justice of the Peace of this County, or higher Officers; you shall be aiding to your Neighbours against unlawful Purveyances: in time of Hay or Corn-harvest, upon request, you shall cause all Persons, meet, to serve by the day for the Mowing, Reaping, or getting in of Corn or Hay; you shall in Easter week cause your Parishioners to chuse Surveyors for the mending of the High-ways in your Parish or Liberty; and you shall well and duly actording to your Knowledge, Power,

and Ability, do and execute all other things belonging to the Office of a Constable, so long as you continue in the said Office.

So help you God.

In this Oath is briefly comprehended the whole Duty of a Constable, and the principal Matters of his Office at large.

The Form of the Petty Constable or Tythingmans, *&c.* Oath runs thus.

YOu shall Swear, That you shall well and truly execute the Office of a Tythingman of the Tything of H. (*or Headborough*, &c.) *His Majesty's Peace in your own Person you shall keep, and see it kept in all others, as much as in you lieth. In the presence of the High Constable, you shall be aiding and assisting unto him; and in his absence you shall execute his Office, and do all other things belonging to your Office, according to your Knowledge and Power, until another be chosen in your room, or you be legally discharged thereof.*

So help you God.

There are in several Counties of this Realm other Officers; that is, by other Titles, but not much inferiour to our Constables; as in *Warwick-shire* a *Thirdborough*, and in other places a *Borough-head*, in others a *Chief-pledge*.

The Authority of these (as I said) is much like that of the Constables: but yet the Office of the Constable is distinct, and of greater Authority and Respect than these.

But

But in Towns where there be no Constables, and that the only Officers for the Peace, there be Headboroughs, Thirdboroughs, Borsholders, or such others; and in such cases where their Power and Authority is declared to be equal with the Constable; in all such things their Office is all one in a manner: and divers Statutes do appoint Offenders to be punished by the Constable, or other inferiour Officers, which must needs be the Tythingmen, &c. 1 *Jac. cap.* 7.

12 *H.* 7. *f.* 8. The High Constables of Hundreds, are Conservators of the Peace within their several Hundreds and Franchises at the Common Law.

Brook Peace 13. *Fitz.* 127. All Petty Constables by virtue of their Office, within their several Liberties of their several Towns, are Conservators of the Peace at the Common Law.

Bacons use of the Law 3, 4. In ancient time High Constables of the Hundreds, and Petty Constables in every Town, were yearly appointed by the Sheriff in his Turn, and were there sworn.

Direct. Judges 29. Constables lawfully chosen, if they shall refuse to be sworn, the Justices of the Peace may bind them over to the Assizes or Sessions of the Peace, and for such his Contempt, he is there to be indicted, fined, and imprisoned.

Coke 8. 43. Every Person that is chosen to be a Constable, ought to be *idoneus Homo*, a Man apt and fit for the Execution of the said Office: and to be *idoneus Homo*, the Law requireth in him three qualifications, *viz.*

1. *Honesty*: to execute his Office truly, without Malice, Affection or Partiality.

2. *Knowledge*: to understand his Duty what he ought to do.

3. *Ability*: as well in Estate as in Body, that so he may attend and execute his Office diligently, and not neglect the same through Want or Impotency.

For such as are chosen out of the meaner Sort, are either ignorant what to do, or stand in awe of the greater; so that they dare not do what they ought, or else are not able to spare time; therefore they ought to be chosen out of the better sort of Parishioners, and not either by the House, or other Custom.

If a Man be chosen Constable, not able and qualified as aforesaid, he may be discharged of his said Office by Law, and another fit Man appointed in his place.

Co. 8. 42. If Leets chuse unable or unfit Petty Constables, it is cause of Forfeiture of the Leet, and such choice is void.

14 *Car.* 2. *c.* 12. Two Justices of the Peace may appoint and swear new Constables, Headboroughs, *&c.* in case of death or removal of such Officers out of the Parish. And if in default of holding Court Leets they continue above the Year, they may be discharged at the Sessions, and others put in.

Idem Stat. Constables, Headboroughs and Tythingmen, which are out of Purse for their Charges, they may with the Churchwardens and Overseers of the Poor, and other Officers of the Parish, make Rates upon all Occupiers of Lands and Inhabitants, and all others chargeable to the Poor, by the Stat. 42 *El.* which being

ing confirmed under the Hands and Seals of two Justices of the Peace, may by their Warrants be levied by distress and sale of the Goods of such as refuse to pay the same.

I shall now set forth every particular Branch of the Constables Office, and of the Tythingmen, Headboroughs, and Borsholders: their Duties are the same in effect, and their Authority; yet the later are inferiours to the former.

CHAP. II.

The Constables Office about Affrays.

IF one makes an Affray, or Assault upon another, in a Constables presence, or in his presence shall threaten to kill, beat or hurt another, or shall be in a Fury ready to break the Peace. In these Cases, the Constastable may commit the Offenders to the Stocks, or to some other safe Custody for the present, until such time as he can carry them before some Justice of the Peace, or to the Goal, until they shall find Sureties for the Peace. The Constable may take Security for the Peace, by Obligation to be sealed and delivered to the Kings use, which Bond the Constable was to send to the Exchequer or Chancery, from whence the Process should issue to levy the Debt to the Kings use, if the Peace were broken. This was the Opinion of three of the Judges of the Common Pleas in *Skirrets* Case, *Trin.* 35 *Eliz. Com. Banc. Rot.* 1458. But *Anderson* Chief Justice said, That the Constable ought to can-

ny the Party, that he should see breaking o the Peace, before a Justice to find Sureties fo the Peace which is the usual Practice at thi day. 3 *H.* 4. 9 & 10. *Bacons use of the Law, fol.* 5. *Dalt. J.P. c.* 1. *fol.* 4, 5.

Dalt. J. P. c. 8. *fol.* 33. The Constable, where he seeth an Affray made, or such as are abou to make an Affray, ought to command the Af frayers, in the Kings Name, to surcease, and depart on Pain of Imprisonment; and if a Constable being present at an Affray, doth not his best endeavour to part them, it being presented by the Jury at the Sessions of the Peace, such Constable may be fined for it.

3 *H.* 7. 1. 3 *H.* 7. 20. *Lamb.* 136. 38 *E.* 3. 8. *Dalt. J. P. c.* 8. *fol.* 33. If any be dangerously hurt in an Affray, the Constable, or any other may stay the Offender, and carry him to a Justice of Peace, who is either to Bail him till the next Goal delivery, or to commit him to the Goal, until it be known whether the Party hurt will live or dye thereof.

Lamb. 135. 1 *H.* 7. 7. 3 *H.* 7. 10. If Affrayers will not depart, but do draw Weapons, or give any Blow, the Constable may command Assistance of others to cease the Affray; and if they make resistance, may justifie the beating and wounding of them: and if either the Constable, or any of his Assistants be killed, it is Murder in the Affrayers.

Lamb. 135. 7 *E.* 3. 19. Where there is a great and dangerous Affray, the Constable may make Proclamation in the Kings Name, that the Affrayers shall keep the Peace, and depart. And if the Affray be in a House, the Constable may break into the House (if the Doors be shut) to see

ſee the Peace kept, though none of the Parties have taken any hurt; and if the Affrayers fly into another Mans Houſe, the Conſtable upon freſh purſuit may break into ſuch Houſe, and apprehend them.

Dalt. c.8. fol.34. & c.118. fol.340. Cromp.146. b. & 172. b. Where the Affrayers fly into another County, the Conſtable ſeeing it, may freſhly purſue, or cauſe them to be purſued, and taken there: and then the Conſtable may carry them before ſome Juſtice of Peace, of the County where they are taken, to find Sureties for the Peace.

And if they flie into a Franchiſe, only within the ſame County where the Affray was, the Conſtable (ſeeing this) may freſhly purſue them, and take them out thence.

Dalt. J. P. c.8. f. 34. 38 H.8. After the Affray is over, the Conſtable cannot Arreſt the Affrayers without a Warrant; except ſome Perſon hath received ſuch hurt there, that he is in danger of death. But before the Affray begun, and at the time thereof, he may Arreſt them without a Warrant.

Dalton ibid. It is not properly an Affray, unleſs ſome blow be given or offered to be given; for hot words is no Affray, neither can the Conſtable apprehend them for Words, unleſs they threaten to kill, beat, or hurt one another; in ſuch Caſe the Conſtable may take ſuch Perſons and carry them before a Juſtice to find Sureties for the Peace, and yet ſuch Threatning is no Affray.

If an Affray, or an Aſſault be made upon the Conſtable himſelf, he may not only defend himſelf, but may alſo put the Parties offending

in the Stocks till such time as he can carry the to a Justice of Peace, or to the Goal; an If he be not able to arrest them himself, h may then call others to his Assistance, wh may justifie to arrest the Offenders, *Dalt. c.* fol. 35. 5 *Hen.* 7. 6.

CHAP. III.

The Constables Office about Alehouses, &c.

IF any one keep an Alehouse, or sell Beer o Ale without Licence, he forfeits 20 *s.* t the use of the Poor, to be levied by distres and sale of the Offenders Goods, by the Constable and Churchwardens, by Warrant from a Justice of Peace, before whom the Offence is proved; which Goods are to be sold within three days after the Distress taken, and the Overplus to be returned, if any be: and in default of Distress, the Delinquent is to be openly whipped by the Constable. If the Constable refuse, or neglect to execute his Warrant, he forfeits 40 *s.* to the Poor; and the Justice may commit the Constable to the Goal, until he causeth the Offender to be whipped, or payeth the 40 *s.* to the use of the Poor, 3 *Car.* 1. *c.* 3. *Dalt. J.P. c.*7. *f.*31, 32.

If a common Inn keeper or Alehouse-keeper refuseth to lodge a Traveller, he profering to pay ready Mony for his Victuals, *&c.* the Constable may cause such an Inn-keeper or Alehouse-keeper, to be indicted at the Sessions or Assises, where he may be fined and imprisoned, or the Party grieved may have his Action of the Case

Caſe againſt the Inn-keeper or Alehouſe keeper. But they are not bound to lodge, or find Victuals without ready Mony firſt paid, if it be required, *Co. 9. lib. Rep. fol. 87. b.* 10 *H.* 7. 8. *Daltons J.P. c.7. f.28.*

In the Condition of the Recognizance, which every Alehouſe-keeper enters into, that is licenſed to ſell Drink, it is one Clauſe, That he ſhall keep one or more ſpare Beds for lodging of Strangers.

Were this well looked into, in and about London, *abundance of forfeited Recognizances would be found; and a great many lazy Knaves, that Live at their Eaſe, by ſelling Drink, might be ſet to work for their livings.*

They are bound likewiſe not to ſuffer any Gaming in their Houſes or Backſides, which now is the main Prop of moſt of them; and there they draw in Apprentices, and Servants, to their ruin: were they puniſhed according to the Statute for this, theſe Caterpillars would not ſwarm ſo thick as they do.

If any Inn-keeper, Alehouſe-keeper, or Victuallers do ſell leſs than a full Ale Quart of the beſt Ale or Beer, or two Quarts of the ſmall for one Penny, he forfeits 20 *s.* for every Offence. If he ſuffers Townſmen, or others, to ſit tipling in his Houſe, he forfeits 10 *s.* for which the Conſtables and Churchwardens, upon a Warrant from a Juſtice of Peace, ought to diſtrain and levy the Forfeitures, according to the Statute; and if there be no Diſtreſs to be found, or if the Officers neglect within 20 days to certifie the ſame Default to the Juſtices, the Officer forfeits 40 *s.* to the uſe of the Poor, to be levied by Diſtreſs on

their

their Goods, by Warrant made to any indifferent Person, from any one or more Justices of the Peace, under their Hand and Seal. And, for want of Distress, the Justice may commit the Offenders to the Goal, there to remain till they have paid the said Forfeitures. In all these Cases, the Distresses are to be kept six days, and if the Parties do not pay the Forfeitures within that time, then the Distress is to be appriſed and sold, and the Overplus returned to the Owners, if any be, 1 *Jac. c.* 9. 1 *Car.* 1. *c.* 4.

If the Constable, or other Officer of the Parish, neglect to serve the Justices Warrant against Townsmen, or others, for Tipling in any Inn, Alehouse, or Victualling-house, or against Men for being Drunk, *viz.* for Tipling, 3 *s.* 4 *d.* and for being Drunk, 5 *s.* to be levied by Distress on the Offenders Goods, and sale thereof after six days default of payment, rendring the overplus to the Owner, and for want of Distress, and not able to pay, the Tipler is to be set in the Stocks four hours, and the Drunkard six hours; and if in any of these cases the Constable neglect to do his Duty, he forfeits 10 *s.* to be levied by Distress and Sale of his Goods to the use of the Poor. These Offences are to be enquired after within six Months after they are committed, and the Constables, and other Officers of the Parish may be charged upon their Oaths to present them. 21 *Jac. c.* 7. *Dalt. J.P. c.* 7. *f.* 28.

CHAP.

CHAP. IV.

The Constables Office about Arms, &c.

IF any Person shall ride, or go armed offensively before the Kings Justices, or before any other the Kings Officers or Ministers during their Office, or in Fairs or Markets, or elsewhere, by Night or by Day, in Affray of the Kings People, and Breach of the Peace; or wear, or carry any Guns, Daggers, or Pistols charged; in such case the Constable upon the sight hereof, may seize and take away their Armor, and other Weapons, and cause them to be apprized, and answered to the King as forfeited, and carry them before a Justice, to find Sureties for the Peace. 2 *E.* 3. *c.* 3. 7 *R.* 2. 13. *Co.* 3. *part Inst. fol.* 162. *Dalt. J. P. c.* 9. *fol.* 35, & 159.

But the Kings Servants in his Presence, Sheriffs, and their Officers, and other the Kings Ministers, and such as be in their Companies assisting them in their Office, and all others pursuing Hue and Cry, where any Felony, or other Offences against the Peace be committed, may lawfully bear Armor or Weapons, 2 *E.* 3. *c.* 3.

All High Constables, Petty Constables, and other Officers within their several Parishes, are to be aiding and assisting to such Persons as shall have Warrants from the Lord Lieutenants, or any two of their Deputies, under their Hands and Seals, to search for, and seize all Arms in the custody and possession of any Person or Persons whom the said Lieutenants or their Deputies shall judge to be dan-

dangerous to the Peace of the Kingdom, and to ſecure the ſame, and give account thereof to the ſaid Officers; but ſuch ſearch is to be made in the day-time, only between Sun riſe and Sun ſet, and not otherwiſe, unleſs it be in Cities and their Suburbs, Towns Corporate, and Market Towns, or Houſes within the Bills of Mortality, in which places ſearch may be in the night, if the Warrant ſo direct.

No dwelling houſe of any Peer of the Realm is to be ſearched, unleſs the Warrant be from the Kings Majeſty, under his Sign-Manual, or in the Preſence of the Lieutenant, or one of the Deputy Lieutenants of the ſaid County or Riding. And in all Places and Houſes aforeſaid where ſearch is made, in caſe of Reſiſtance, to enter with force; and ſuch Arms ſo ſeized where the Lieutenants, or their Deputies, or any two of them think fit, may be reſtored to the Owners again, 14 *Car.* 2. *c.* 3.

The Conſtables by Warrant under the Hand and Seal of the Lord Lieutenant, or any three or more of the Deputy Lieutenants, are to levy ſuch Sums, Forfeitures, Penalties and Payments, as ſhall be charged upon any Perſon or Perſons within their ſeveral Liberties, for the furniſhing of Arms, Horſe or Foot, or Payment of Soldiers, 14 *Car.* 2. *c* 3. *&* 15 *Car.* 2. *c.*4.

And where ſufficient Diſtreſs cannot be had, then the Lord Lieutenants and their Deputies, by like Warrant to the Conſtable, may commit ſuch Offender to priſon, until he ſhall make ſatisfaction according to the ſaid Forfeiture, Payment or Penalty, *ibid.*

CHAP.

CHAP. V.

Articles which the High Conſtables are to return the Juſtices at their Seſſions, or their Monthly Meetings of the Diviſions, and to cauſe their Petty Conſtables, &c. in their ſeveral Liberties to make Return thereof unto them.

1. THey are to return the Names, Sir names, Additions of Names and Qualities of all Popiſh Recuſants (as well Houſe-keepers as Lodgers) dwelling or reſiding in any of their ſaid Pariſhes, Liberties or Precincts.

2. Such Perſons as ſhall continue Drinking or Tipling in any Inns or Alehouſes at any time, and more eſpecially upon the Lords Day, or Holy Days, and ſuch Perſons as they ſhall find Drunk, and all ſuch Inn-keepers and Alehouſe-keepers as ſhall entertain them.

3. *Item* the Names of ſuch as ſhall prophanely Swear or Curſe, with the number of their Oaths, immediately after the committing ſuch Offence, inform the next Juſtice thereof.

4. *Item* they are to return ſuch Victuallers or Alehouſe-keepers as uſe Victualling, or ſelling of Beer and Ale without Licenſe.

5. *Item* ſuch Perſons as ſuffer any unlawful Games to be ſuffered in their Houſes, Backſides, or Gardens; and alſo the Names of ſuch as ſhall play at any of the ſaid Games.

6. *Item* ſuch Perſons as refuſe or neglect to do their Duty of Watching and Warding.

7. *Item* ſuch Perſons as divide their Houſes into ſeveral Tenements, and ſuch as do entertain Inmates, who may be an Annoyance to their Neighbours, or likely to bring charge upon the Pariſh.

8. *Item*

8. *Item* the Defaults of Petty Constables a
Tythingmen, *&c.* for not causing Rogues, V
gabonds, and Beggars, to be duly apprehen
ed, punished, and passed, according to t
Statute.

9. *Item* all Masterless Men and Women,
ving at their own Hands, such as are Idle, a
will not Labour, and can give no good a
count how they get their Living; all suspi
ous Persons, Whores, Noctivagants, or Nigh
walkers, and Mothers of Bastards, which m
be chargeable to the Parish.

10. *Item* the Names of such Persons as r
fuse to take Apprentices, poor Parish Childr
to Husbandry, or other Callings, according
Law.

11. *Item* all such as neglect to make d
Rates and Collections for the Relief of the Po
in every Parish, and that cannot, or do not gi
a just account of the Employment of the Re
and Stock of the Poor.

12. *Item* of the Defects in the High Wa
and Bridges, with the Names of such as shou
repair them, and have neglected or refused t
do their Duty herein.

13. *Item* such Scavengers as neglect to d
their Office in cleansing the Streets, to be ke
clean within their Liberties; and the Nam
of such Persons as commit common Annoy
ances, by laying of Dung, Soil, Dirt or Ashes
the Street.

14. *Item* the Names of all such Persons a
refuse to pave the Streets before their Houses
where the said Streets have usually been pave
formerly.

15. *Item*

15. *Item* the Names of all such Persons as eep any Hogs (to the common Annoyance of is Majesties Subjects) in or about such Liber-es, Places and Precincts, where Hogs ought ot to be kept.

16. *Item* all such Bakers as put light Bread sale, and the Weight thereof; and such rewers as sell Beer or Ale to unlicensed Ale-ouse-keepers; all Forestallers, Regrators, and grossers of any Corn, Grain, Butter, Cheese, acon, or any other kind of dead Victuals hatsoever.

17. Lastly, All such Persons as can prove or stifie any of the said Offences, are to be warn-d to appear before the said Justices at their ssions or Meetings aforesaid, to testifie their nowledge of such Offences of which they can ve Information.

CHAP. VI.

The Constables Office about Foreign Bone-Laces, Cut-work, Imbroidery, &c. and French Goods.

THE Constables upon Warrant to them directed from the Justices of Peace, or hief Officers of the Cities, Towns Corpo-ate, *&c.* are to search within their respective ounties, Cities, Towns, *&c.* in the Shops eing open, Ware-houses, and Dwelling-house f such Person or Persons, who shall be su-pected to have any Foreign Bone-Laces, Cut-works, Imbroideries, Fringes, Bandstrings, But-ons, or Needle-works make of Thred, Silk, or ny, or either of them, made in the Parts be-

yond

yond the Seas, and where they find any su
to seize the same, 14 *Car.* 2. *c.* 13.

No French Wine, Vinegar, Brandy, Lin
Cloth, Silks, Salt, Paper, or any Manu
ctures made of, or mixed with Silk, Thr
Wool, Hair, Gold or Silver, or Leather,
ing of the Product or Manufacture of any
Dominions of the French King, shall after
24th of *August*, 1689. during the Term of th
Years, or before the end of the first Session
Parliament, next after the expiration of
said three Years, to be imported into *Engla*
Wales, or Town of *Berwick*, or Isles of *Jer*
Guernsey, *Alderny*, *Sark*, or Isle of *Man*, mi
or unmixt with any Commodity of the P
duct of any other Country; such Import
on, and vending the said Commodities impo
ed contrary to this Act, being by the s
Act declared a common Nusance: And su
Goods are to be seized, and carried in
his Majesties Ware-house, and if upon
Information into the Exchequer; the Ju
find that they are French Goods, Judgme
shall be, That the Wines and Brandy shall
staved and spilt in some River, Stream or S
near the place where they were seized, or sh
remain in the Ware-houses, and the other Co
modities publickly burnt and destroyed: T
Importers to forfeit the value: They in wh
Hands they shall be seized, or who sold the
the like for the first Offence: And for the
cond Offence, double the value, and after Co
viction of the second Offence, to be incapa
to exercise, or execute any Office or Imple
ment about any part of the Kings Revenue,
any other Office or publick Imployment wh
soever.

A

And if any Person not being a known Mer-
ant, Vintner, or Shop-keeper shall sell, or
pose to sale, any of the Commodities afore-
d, (and be thereof convicted) shall over and
ove the aforesaid Penalties, suffer twelve
nths Imprisonment, without Bail or Main-
ize, and all Ships and Vessels, with their
ns, Tackle and Furniture in which any of
e said Goods shall be imported during the said
rm; and also every Bark, Hoy, Lighter,
rge, Wherry, Boat or other Vessel whatsoever,
t of which any of the said Goods shall be
t on Shore, shall be forfeited, and the Ma-
r, or any other Person taking care of such
ip or Vessel, shall forfeit 500 *l.* and also,
eing convicted thereof before a Justice of
ace, by the Oaths of two Witnesses) be com-
tted to the next Goal, for twelve Months,
thout Bail or Mainprize. And all Seamen,
ariners, Watermen, Carmen, Porters, La-
urers, or other Persons whatsoever assisting
unshipping, carrying or conveying any of
e said Goods, upon Proof as aforesaid, shall
subject to like Imprisonment, or be pub-
kly whipt at the discretion of the Justice
Peace. And all Carts, Wains, Waggons,
rriages, Plough-Teams, Horses or Oxen made
e of in the Carriage or Conveyance of any
the said Goods, shall be seized, and upon
roof made before a Justice of Peace of the
ounty where the same were so seized, by
e Oaths of two credible Witnesses, that they
ere assisting in the Carriage or Conveyance of
ny of the said Goods, the same shall be for-
ited, one half thereof to be disposed of to
he use of the Poor of the Parish where the
same

ſame ſhall be ſeized, the other half to th
uſe, who ſhall ſeize the ſame. The Inform
who after ſeizure or ſtay of the Goods, fr
dulently delays the Proſecution, ſhall for
500 *l.*

All Officers of the Cuſtoms, Sheriffs, Mayo
Bailiffs, Conſtables, and other Officers are
joyned to be aiding and aſſiſting in the due
ecution of this Act; See 1 *W.* & *M.*

By 2 *W.* & *M.* For the more effectual pu
cing in Execution, the Act for Prohibiting
Trade and Commerce with *France*, It is Ena
ed, That if any Perſon after the firſt of
bruary 1690. ſhall ſell, or utter by retail
Glaſs Bottles, or in any other retail Meaſu
not made of Pewter, and ſealed according
Law, any kind of Wine whatſoever, or oth
Liquor expoſed to ſale for Wine, or ſell t
ſame for a greater price, than by the ſaid A
is appointed, and be convicted thereof by t
Confeſſion of the Party, or the Oath of t
credible Witneſſes, before one or more
ſtice or Juſtices of the Peace of the Coun
City, or place where ſuch Offence ſhall be co
mitted (who are hereby required and i
powered to adminſter an Oath to that pu
poſe) ſuch Perſon being proſecuted with
thirty days next after ſuch Offence committe
ſhall forfeit and pay for every ſuch Offen
the Sum of fifty ſhillings, which if not pa
upon demand, ſhall be levied by diſtreſs a
ſale of the Goods and Chattels of every ſu
Offender, by Warrant under the Hand a
Seal of the Juſtice or Juſtices before wh
ſuch Conviction ſhall be made, which Wa
rant the ſaid Juſtice and Juſtices are impowe

h, and required to grant to the Conſtable, adborough, or Tythingman of the Pariſh, Place where ſuch Offence ſhall be commit-d, who are required and authoriſed imme-ately to levy the ſame, rendring the over-us to the Owner thereof; the ſaid Penalty, orfeiture, and Mony ſo levied, to be given to e Informer.

CHAP. VII.

e Conſtables Office for providing neceſſary Car-riages for his Majeſty, &c.

BY the Statute of 1 *Jac.* 2. It is Enacted, That the Clerk, or Chief Officer of his ajeſty's Carriages, ſhall three days at leaſt fore his Majeſty's Arrival, by Warrant from e Green-Cloth, give notice in Writing to o or more of his Majeſty's Juſtices of the ace next adjoyning, to provide ſuch a num-r of Carts and Carriages from the Places next jacent, as his Majeſty ſhall have preſent uſe , expreſſing the certainty of that number, alſo the time and place when and where e ſaid Carts and Carriages are to attend; hich Carriages ſhall conſiſt of four able Horſes, ſix Oxen, or four Oxen and two Horſes; each of which Cart or Carriage, the re-ective Owners ſhall receive ſixpence for each ile they ſhall go laden; and, that in caſe y of his Majeſty's Subjects of this Realm all refuſe to provide and furniſh his Majeſty, at now is, or his Queen that is or ſhall be, r His or Her Houſhold, or her Majeſty *Ca-therine*

therine Queen Dowager, or Her Houſhold, t
their Progreſs or Removals, with ſuch ſuffic
ent and neceſſary Carriages for their War
robe, or other Neceſſaries, for ready Mon
tendered to them, or ſhall without juſt a
reaſonable Cauſe refuſe to make their Appe
ance, with ſuch ſufficient Carts and Carriag
as are before expreſt, that then upon d
Proof and Conviction of ſuch neglect or r
fuſal, by the Oath of the Conſtable or oth
Officer, or two other credible Witneſſes, b
fore the ſaid Juſtices of the Peace of th
County, or Mayor, or other Chief Officer
the City or Corporation where he or the
Inhabit, (which Oath they ſhall have power
adminſter) the Party ſo refuſing, ſhall for ſuc
his refuſal and neglect, forfeit the Sum of for
ſhillings to the Kings Majeſty's uſe, to be forth
with levied by diſtreſs and ſale of his Goo
and Chattels (rendring to the Parties the ove
plus upon every ſuch Sale, if there ſhall
any) by Warrant from the ſaid Juſtices of th
Peace, Mayor or other Officer. No Horſes Oxe
Cart or Waln ſhall be enforced to travel abo
one days Journy from the Place where the
receive their Lading, and that ready Payme
ſhall be made in Hand, for the ſaid Carriage
at the place of Lading, without delay, a
cording to the aforeſaid Rates: And in ca
any Juſtice of the Peace, Mayor, Officer
Conſtable ſhall take any Gift or Reward
ſpare any Perſon or Perſons from making ſu
Carriage, or ſhall injurioufly charge or grie
any Perſon through Envy, Hatred or Evil wi
who ought not to make ſuch Carriage, or ſh
impreſs more Carriages than he ſhall be d
rect

ected from the Green-Cloth to do, that then pon due Proof and Conviction thereof, the arty ſo offending, ſhall forfeit the Sum of ten ounds to the Party thereby grieved, or any ther who ſhall ſue for the ſame, to be recoered by Action of Debt in any of his Majeſty's Courts of Record, wherein no Eſſoign, rotection, or Wager of Law ſhall be allowd. And in caſe any Perſon or Perſons ſhall reſume to take upon him or them to impreſs ny Horſes, Oxen, Cart, Wain or Carriages for is Majeſty's Service, other than the Perſon ſo mpowered, then he or they ſo offending, all upon due Conviction of the ſaid Offence, cur and ſuffer the Puniſhment contained in e Act of 12 *Car.* 2.

And it is further Enacted, That the High onſtable or Conſtables, the Mayor, Bailiff, other Chief Officer, who ſhall be required this Act, to warn the ſaid Carts and Carages, as in the ſaid Act directed, do make a eturn in Writing to the Clerk or other Ofcer of the Carriages, of the Names and Places Abode of every ſuch Perſon who is ſo arned to bring in his Cart or Carriage, to e intent it may be known (in caſe of any ilure) who is in default, and the ſaid Conables, and other Chief Officer or Officers appointed by this Act, to warn in the ſaid Carages, as aboveſaid, may be diſcharged and demnified, and the Defaulters puniſhed, as this Act is provided.

14 *Car.* 2. *c.* 20. For providing Carriages, by and and by Water, for the uſe of his Majeſty's Navy and Ordnance, Two or more Juſtices of the Peace, by Warrant from the Lord

High Admiral of *England*, or two or more
the principal Officers or Commissioners of t
Navy, or the Master of his Majesty's Ordnanc
or the Lieutenant of his Ordnance, are
provide Carriages, with Horses and Oxen o
of the Country, not being above twelve Mil
distant from the place of lading; the Owne
of which Carriages, or their Servants, are
receive twelve pence a Mile for every Load
Timber, and eight pence a Mile for every T
of other Commodities. And all such Persons
neglect or refuse to make their appearance, u
on Oath thereof made before the Justices,
the Constable, or two Witnesses, the Pers
refusing, or neglecting, forfeits twenty shillin
to be levied by Distress and Sale of his Goo
by Warrant from the said Justices, Mayor,
other chief Officer, or from the principal O
ficers or Commissioners of his Majesty's Na
or Master, or Lieutenant of his Majesty's Or
nance, rendring to the Owner the overplus,
any be, first deducting the Charge of Distrai
ing.

No Horses, *&c.* or Land-Carriage, shall
forced to travel more days-journy, from t
place where they receive their Lading, nor
compelled to continue longer in the Emplo
ment, than the said Justices shall appoint; a
that ready Mony be paid to the Parties in han
at the place of Lading, according to the Ra
aforesaid, *Stat. ibid.*

The said Act of 14 *Car.* c. 20. & 13 c. 8. are
continue until the end of the first Session of t
next Parliament, and expired, but revived
1 *Jac.* 2. for 7 years, from *June* 21, 1685. and
continue to the end of the first Session of t
next Parliament.

CH A

CHAP. VIII.

The Conſtables Office about Iriſh Cattel.

any great Cattel, Sheep or Swine, or any Beef, Pork or Bacon, (except ſuch as is the neceſſary Proviſion of the reſpective ps or Veſſels in which the ſame be brought, expoſing the ſame, or any part thereof ſale) ſhall by any wiſe whatſoever be ported or brought from *Ireland*, or any er Part beyond the Seas, into the King- of *England*, Dominion of *Wales*, or Town *Berwick* upon *Tweed*; in ſuch caſe the ſtable, Tythingman, Headborough, Church- dens, or Overſeers of the Poor, or any of n within their reſpective Liberties, Pa- es or Places, may take and ſeize the ſame, keep the ſame during the ſpace of t and forty hours, in ſome publick or venient place, where ſuch ſeizure ſhall be le; within which time, if the Owner or ners, or any for him, or them ſhall make ppear unto ſome Juſtice of Peace of the e County, where the ſame ſhall be ſo ſei- , by the Oath of two credible Witneſſes, the ſame were not imported from *Ireland*, from any other Place beyond the Seas, (ex- the Iſle of *Man*) then the ſame, upon Warrant of ſuch Juſtice of Peace, is to be vered to the Owner or Owners without de- 18 *Car.* 2. *c.* 2.

But in default of ſuch Proof and Warrant, n the ſame to be forfeited, and one half reof to be diſpoſed to the uſe of the Poor

of the Pariſh where the ſame ſhall be ſo fou
and ſeized; and the other part thereof to h
or their own uſe that ſhall ſo ſeize the ſam
18 *Car.* 2. *c.* 2.

Such Cattel as are imported from the *I*
of Man, (before excepted) into *England*, &
are not to exceed the number of ſix hundr
in one Year, and they are to be of no oth
Breed, than of the Breed of the *Iſle of M*
and all to be landed at the Port of *Cheſter*,
ſome of the Members thereof, and not el
where, 18 *Car.* 2. *c.* 2.

This Act was to continue for ſeven Yea
and from thence, to the end of the firſt Se
on of the next Parliament: And is now by t
Statute of 32 *Car.* 2. *c.* 2. revived and ma
perpetual.

But theſe former Remedies not proving
effectual for the prevention of the Tranſpo
ing of the Cattel aforeſaid, it is further p
vided, That whenſoever, and as often as
ſhall happen, either through any fraud
lent Agreement, or unfaithful Connivence
any Conſtable, Headborough, Tythingma
Churchwarden, or Overſeer of the Poor,
that it ſhall happen any otherwiſe howſoev
that any great Cattel, Sheep, Swine, Be
Pork or Bacon, after the firſt Seizure
them, or any of them, by Virtue of the afo
ſaid Act, ſhall be driven, brought, carr
into, or found in any other Pariſh or Pla
than where the ſame ſhall be firſt ſeized,
aforeſaid; That then, and ſo often, and fr
time to time, it ſhall and may be lawful
and for the Conſtable, Tythingman, Headb
rough, Churchwarden, or Overſeer of t
Poo

Poor, of every, or any ſuch other Pariſh or Place, where ſuch great Cattel, Sheep, Swine, Beef, Pork or Bacon, ſhall be brought, driven, or carried into, or found as aforeſaid, to ſeize, take, and diſpoſe of the ſame, and every, or any of them as forfeited, The one Moiety thereof to the uſe of the Poor of ſuch other Pariſh or Place, where ſuch Seizure ſhall be made, the other to the uſe of ſuch Officer or Officers, who ſhall ſeize the ſame as aforeſaid; any other, or former Seizure or Seizures, in any other Pariſh or Pariſhes, Place or Places, notwithſtanding, *Stat.* 20 *Car.* 2. *c.* 7.

And now by the Statute of 32 *Car.* 2. *c.* 2. it is further provided, That any Perſon may make ſuch Seizures as well as the Conſtables, or other Officers or Inhabitants: And that to prevent fraudulent Seizures, and Compoſitions, the Seizors ſhall within ſix days after Conviction and Forfeiture, cauſe the ſaid Cattel, Sheep and Swine, to be killed; and the Hides and Tallow ſhall be to the Seizor, and the Remainder to be diſtributed by the Churchwardens and Overſeers, amongſt the Poor of the Pariſh; where any ſuch great Cattel, Sheep or Swine ſhall be imported or found.

The Seizor, Churchwarden or Overſeers, failing in his Duty, ſhall forfeit forty ſhillings, for every one of the great Cattel, and ten ſhillings for every Sheep or Swine, which ſhould have been ſo killed and diſtributed: one Moiety to the Poor of the ſaid Pariſh, the other to the Informer, to be levied by Diſtreſs and ſale of the Offenders Goods, by Warrant from any one Juſtice of Peace; and for want thereof, the

Offender to be committed to Goal for th
Months without Bail.

Mutton and Lamb imported, ſhall be ſub
to the like Seizure, and the Importers and
lers to the like Penalties, as for Importatio
Beef, Pork or Bacon; and the like of Bu
and Cheeſe imported from *Ireland*.

If any great Cattel, Sheep or Swine, wh
have been ſeized, be found alive in any ot
Pariſh or Place, they are to be ſeized a
and killed to the Benefit of the Seizor,
the Poor of that Pariſh or Place, in man
aforeſaid.

Engliſh or other Cattel, intermixt with I
Cattel, ſhall be deemed Iriſh in all reſpe
32 *Car.* 2. *c.* 2.

CHAP. IX.

The Conſtables Office about Conventicles.

BY the Stat. of 22 *Car.* 2. *cap.* 1. made aga
Seditious Conventicles; every Conſtab
Headborough, Tythingman, Churchwarden,
Overſeers of the Poor, are authorized and
quired to levy the Fines aſſeſſed by the Juſt
of Peace, upon thoſe who ſhall be preſent at
lawful Conventicles, upon their Goods and Ch
tels, having firſt received a Warrant under
Hands and Seals of one or more Juſtices, or Ch
Magiſtrate, and forthwith deliver the Mony
levied to the ſame Juſtice of Peace, or Chief M
giſtrate. And by Warrant from one or more J
ſtice or Juſtices, or Chief Magiſtrate, and reſp
ctive Conſtables, Headboroughs and Tythingm

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(Overseers not named) may with what aid, force and assistance they think fit, after refusal or denial to enter, break open into any House, or other Place, where they shall be informed any Conventicle is held, as well within Liberties as without, and take into their Custody the Persons there unlawfully assembled, to be proceeded against according to this Act.

No Peers House is to be searched, unless in presence of a Lord Lieutenant, or two Justices of Peace, whereof one to be of the *Quorum*.

If any Constable, Headborough, Tythingman, Churchwarden, or Overseer of the Poor, shall know, or be credibly informed of any Conventicle within his Precinct, and shall not thereof inform some Justice of the Peace, or Chief Magistrate, and endeavour the Conviction of the Parties, but neglects his Duty, he forfeits five Pound, to be levied on his Goods: And any Person sued for acting by this Law, may plead the General Issue, and give the special Matter in Evidence, and shall recover treble Costs, 22 *Car.* 2. *c.* 1.

By the 1 *W.* and *M.* for Exempting their Majesties Protestant Subjects dissenting from the Church of *England*, from the Penalties of certain Laws, It is Enacted, That all Persons that take the Oaths, and make, and subscribe the Declaration in the said Act mentioned, to be taken, shall not be liable to any Pains, Penalties and Forfeitures of 35 *Eliz.* nor 22 *Car.* 2. But, That if any Assembly of Persons dissenting from the Church of *England*, shall be had in any Place for Religious Worship, with the Doors locked, barred or bolted during any time of such Meeting together, all and every Person or

Perſons that ſhall come to, and be at ſuch Meeting, ſhall not receive any benefit from this Law, but be liable to all the Pains and Penalties of all the aforeſaid Laws, recited in this Act, for ſuch their Meeting. And alſo That if any Perſon diſſenting from the Church of *England*, as aforeſaid, ſhall hereafter be choſen, or otherwiſe appointed to bear the Office of High Conſtable, or Petty Conſtable, Churchwarden, Overſeer of the Poor, or any other Parochial or Ward Office; and ſuch Perſon ſhall ſcruple to take upon him any of the ſaid Offices, in regard of the Oaths, or any other Matter or Thing required by the Law, to be taken or done, in reſpect of ſuch Office, every ſuch Perſon ſhall and may execute ſuch Office or Employment by a ſufficient Deputy, by him to be provided that ſhall comply with the Laws on this behalf.

CHAP. X.

The Conſtables Office about Clothiers.

CONſtables, and other Officers, upon requeſt are to aid and aſſiſt the Wardens and Aſſiſtants for regulating the Trade of Worſteds, and other Stuffs, called *Norwich* Stuffs made in *Norwich*, and the County of *Norfolk*. 14 *Car.* 2. *c.* 5.

They ought to be very vigilant in this Buſineſs, for there never was ſuch ſlight and unſerviceable Stuffs as now are; to the great Damage of his Majeſty's Subjects.

In

In the West-Riding of the County of *York*, the Constables are likewise by Warrant from the Justices of the Peace, Master and Wardens of the Corporation, or any thirteen of them, to levy such Fines, Penalties and Forfeitures, as shall grow due from any Clothier, by virtue of the Statute aforesaid, by Distress and Sale of the Offenders Goods, rendring the overplus to the Owner upon demand, 14 *Car.* 2. *c.* 5.

Clothiers must pay their Spinners, and other Workfolks, their Wages in ready Mony, and not in Wares, and shall deliver their Wool in due weight, on pain to forfeit six pence for every Default; and the Carders, Spinners, Weavers, and other Workfolks, are to do their Work faithfully, on pain to forfeit double Damages to the Party grieved, 4 *E.* 3. *c.* 1. *Fitz. J.P.* 103.

The Master, or Head Officer in a Corporation, where there is no Master, and out of a Corporation, every Justice of Peace, High Constable and Stewards of Court-Leet, shall hear and determine the Complaints, as well for non-payment of the Workfolks Wages, as the Damages aforesaid, by examining the Parties; for which Damages they have Power to commit the Offenders to the Goal, until the Party grieved be satisfied, *Stat. idem.*

The Justices of Peace, and High Constables, may search any House, or other Place for Tenters, Ropes, Rings, Headwrinches, or other Engines for stretching of Cloth, and if they find any, to deface them; and if the Owner use them again, these Officers may take them away and sell them, and give the Mony to the Poor, 39 *Eliz.* c. 20.

CHAP. XI.

The Constables Office about the Customs.

BY the 14 *Car.* 2. Such Person or Persons are authorized by Writ of Assistance, under the Seal of his Majesty's Court of Exchequer are to take a Constable, Headborough, or other publick Officer inhabiting near the Place, and in the day-time are to enter, and go into any House, Shop, Cellar, Warehouse, Room, or other Place, and in case of Resistance, break open Doors, Chests, Trunks, and other Packs there to seize, and from thence to bring any kind of Goods, Merchandize whatsoever, prohibited and uncustomed, and to put, and secure the same in his Majesty's Store-house, in the Port next to such Place where the seizure shall be made, 13 *Car.* 2. *c.* 11.

All Officers belonging to the Admiralty, Captains, and Commanders of Ships, Forts, Castles and Block-houses, and all Justices of Peace, Mayors, Sheriffs, Constables and Headboroughs, and other the King's Majesties Officers and Subjects whatsoever, whom it may concern, are to be aiding and assisting to all and every Person and Persons, which are, or shall be appointed by his Majesty to manage his Custom: and if the Officers of the Customs, or any acting in aid of them shall be sued, indicted, prosecuted or molested such Persons, their Heirs, Executors, and Administrators, may plead the General Issue, and give the several Acts relating to the Customs, or any of them in Evidence, in any of his Majesty's Courts of Justice, 14 *Car.* 2. *c.* 11.

The

The Stat. of 12 *Car.* 2. *c.* 19. about Customs, was to continue but to the end of the first Session of the next Parliament, and is now expired.

CHAP. XII.

The Constables Office about Setting-Dogs, &c.

THE Constable, Tythingman, or Headborough of any place (upon a Warrant under the Hands and Seals of two or more Justices of the Peace) hath power to search the Houses of any Persons suspected to keep Setting-Dogs, or Nets, for the taking of Pheasants or Partridges, and the Dogs and Nets there found, to take, carry away, detain, kill, destroy, and cut in pieces, 7 *Jac. c.* 11. *Dalt. J. P. c.* 37. *fol.* 90.

But they cannot search the Houses of any who have Free Warren, or any Lord of any Mannor, or such as have 40 *l. per ann.* or more in Free-hold, or some Estate of Inheritance, or 80 *l. per ann.* for Life, or be worth in Personal Estate 400 *l.* These may keep Nets and Dogs to take Pheasants or Partridges in their own Ground, *Stat. idem, Dalt. ibid.*

CHAP. XIII.

The Constables Office about Escapes and Arrests.

IF a Constable, or any other Officer, which hath a Prisoner in custody for Felony, or Suspicion thereof, voluntarily letteth, or suffereth

eth the Priſoner to go where he will at liberty (though this be breaking of Priſon) yet it is Felony in the Goaler, Conſtable, or him that ſuffereth ſuch Priſoner eſcape, but it is no Felony in the Priſoner; but if ſuch a Priſoner ſhall eſcape by the Negligence of his Keeper, and againſt his Will and Knowledge, then it is Felony in the Priſoner, becauſe a Breach of Priſon, and the Goaler or Conſtable, *&c.* ſhall be Fined by the Judges or Juſtices for ſuch Eſcape *Dalt. J.P. c.* 106. *fol.* 272. *Bro. Coron.* 112, 22[illegible] 316,454. *& Bro. Eſcape* 31 *Stamford fol.* 32.

If a Conſtable, or other Officer, ſhall voluntarily ſuffer a Thief (being in his Cuſtody) to go into the Water, and drown himſelf, this Eſcape is Felony in the Conſtable, and the Thief is *Felo de ſe*; but if the Thief ſhall ſuddenly (without the aſſent of the Conſtable) kill, hang or drown himſelf, this is then but a negligent Eſcape in the Conſtable, and Fineable, as aforeſaid, *Dalt. J.P. c.* 106. *fol.* 272.

The voluntary letting a Felon eſcape before he be arreſted for the Felony, is no Felony in the Party that ſuffereth him to eſcape; but if the Conſtable ſuffer one to eſcape, whom he knows hath committed a Felony, he is fineable, if it do not make him acceſſary, *Dalt. ibid.*

Where a Felony is committed, and one is Arreſted for the ſame, or Suſpicion thereof, though the Conſtable, *&c.* ſhall after have certain Intelligence and knowledge that the Party arreſted is not Guilty of the Offence; yet they may not ſet the Party at liberty, for he muſt not be delivered but by due courſe of Law, *Cromp.* 40, 44. *Dalt. J.P. c.* 196. *f.* 275.

If

If a Constable convey a Felon to the Goal, and the Goaler will not receive him, then the Constable must bring him back to the Town where he was taken, and that Town shall be charged with the keeping of him until the next Goal-delivery; and in such case the Goaler shall be punished by the Justices, *Dalt. J. P. c.* 118. *fol.* 340.

The Constable, or other Officer, that shall Imprison any Felon in the Stocks, may lock the Stocks, and if need be, may also put Irons on the Prisoner, and when he conveyeth him to the Goal, or to the Justice, he may Pinion him, or otherwise make him sure, so that he cannot escape, *ibid.*

CHAP. XIV.

The Constables Office about Excise.

THose Officers under the Commissioners of Excise, called Gagers, are to have the Constable along with them, when they enter by night into the Houses of any Brewer, Inn-keeper, Victualler, &c. to gage their Coppers, Fats, or Vessels, or to take an Account of their Beer, Ale, Worts, Perry, Syder, Strong-waters, Metheglin, Mead, Coffee, Chocolate, Sherbet or Tea, brewed, made or distilled in the said Houses, 12 *Car.* 2. *c.* 23, 24.

Such Persons as shall be convicted before the Justices of Peace, or Commissioners of Excise, of any Offence and Forfeiture within the Acts for Excise, the Constables, upon Warrant to them directed from the Justices of Peace, are to levy the

the Penalties upon the Goods of the Offenders, by diſtreſs and ſale thereof, rendring the overplus to the Owners, and for want of Diſtreſs, they are to carry the Party to the Goal, there to remain till ſatisfaction be made, 12 *Car.* 2. *c.* 23, 24.

The Conſtables are alſo upon Warrant to them directed, to ſummon all Alehouſe-keepers, &c. to appear before the Commiſſioners of Exciſe, at ſuch days and places as ſhall be appointed in the ſaid Warrant, from time to time.

CHAP. XV.

The Conſtables Office about Fiſh.

THE Conſtables and Churchwardens, by Warrant from any one or more Juſtices of the Peace (where any Offence is committed in deſtroying the Spawn and Breed of Fiſh, along the Sea-ſhore, or in any Haven or Creek, or within five Miles of the Mouth of any Haven or Creek, by Fiſhing with Nets of leſs Meſh than three Inches and an half between knot and knot) are to levy the penalty by diſtreſs and ſale of the Offenders Goods, rendring the overplus to the Owners; the penalty is ten ſhillings, and forfeiture of their Nets, 3 *Jac. c.* 12. *Wingates Abr. Stat. Tit. Fiſhers and Fiſhing.*

The Juſtices of Peace of the Counties of *Worceſter*, *Salop* and *Glouceſter*, upon their own knowledge, or upon information that any Perſon hath made uſe of any Net, Engine, or Device in the River of *Severn*, whereby any *Salmon*, *Trout* or *Barbel*, under the length appointed by the Stat. of 1 *Eliz.* ſhall be taken or killed, or hath fiſhed with

with any Net for *Salmon*, *Salmon-mart*, *Salmon-peal*, *Pike*, *Carpe*, *Trout*, *Barbel*, *Chub* or *Grayling*, the Meſh whereof is under two Inches and a half ſquare, from knot to knot, allowing to each Meſh four knots, or above twenty yards in length, and two yards in breadth, or above fifty yards in length, and ſix yards in breadth, in the wing of the Net, in the ſaid River from *Ripplelochelake* to *Glouceſter Bridge*, or above ſixty yards in length below *Glouceſter Bridge*, and ſix yards in breadth, in the wing of the Net, or hath fiſhed with two of thoſe Nets fixed together, or uſed any Net or Device for taking the Fry of Eels, or whereby the Spawn of Fiſh ſhall be deſtroyed, ſhall iſſue out Warrants under the Hands and Seals of any two of them, in their reſpective Counties, to the Under Conſervators of the ſaid River, or to any Conſtable, Tythingman or Headborough, to ſearch in the day-time, in all ſuſpected places, for ſuch unlawful Inſtruments, and to ſeize them, and bring them to the Quarter Seſſions to be burnt or deſtroyed, 30 *Car.* 2. *c.* 9.

If any Ling, Herring, Cod, or Pilchard, freſh or ſalt, dried or bloated, or any Salmons, Eels or Congers, taken by Foreigners, Aliens to the Kingdom of *England*, ſhall be imported, uttered, ſold, or expoſed to ſale in this Kingdom; in ſuch caſe the Conſtable, Headborough, &c. or any other Perſon may take and ſeize the ſame, and one half thereof muſt go to the uſe of the Poor of the Pariſh where the ſame is ſo found and ſeized, and the other half to the uſe of the Party that ſeizes the ſame, 18 *Car.* *c.* 2.

CHAP.

CHAP. XVI.

The Constables Office about forcible Entries, &c.

IF a Constable, or any private Person of the same County do refuse to attend and assist the Justices of Peace, upon request to remove a Force, or to convey the Parties to the Goal, he may be imprisoned for his neglect, and make Fine to the King, 15 *R.*2. *c.*2. *Dalt. J.P. c.*22. *f.*57.

CHAP. XVII.

The Constables Office about Hedge-breaking, &c.

SUch as are convicted before a Justice of Peace, for cutting and taking away of Corn growing, robbing of Orchards, breaking Hedges, and their Procurers and Receivers knowing the same, are to give the Party grieved such Satisfaction as a Justice of Peace shall think fit; and if they cannot give such satisfaction, then the Justice may commit the Offenders to the Constable to be whipped for the first Offence, and the like pain for the second Offence; and if the Constable, or other Officer, do not by himself, or some other, see the same done accordingly, then the Justice may commit such Officer to the Goal, there to remain without Bail, until he procure the Offender to be whipped as aforesaid, 43 *El. c.*7.

The Constables, Headboroughs, or other Person, in every County, City, Town-Corporate, or other Place, where they shall be Officers

and

nd Inhabitants have power to apprehend, or auſe to be apprehended ſuch Perſons as they ſpect, for having, carrying, or conveying any urthen or Bundles of any kind of Wood, Unerwood, Poles, or young Trees, or Bark of ny Trees, or Gates, Stiles, Poſts, Rales, Pales, edge-wood, Broom or Furze; and any Conable, Headborough, &c. by Warrant under the and and Seal of one Juſtice, may enter into e Houſes, Out-houſes, Yards, Gardens, or ther Places belonging to the Houſes of ſuch erſons as they ſhall ſuſpect, &c. and where they hall find any, to apprehend the Parties ſuſpected for cutting the ſame, and thoſe in whoſe uſtody, *&c.* any ſuch Wood or Underwood hall be found, and carry them before a Juſtice f the Peace, and if the Party cannot give a ood account to the Juſtice how he came by he ſaid Wood, *&c.* by the conſent of the Owner, or ſhall not within the time the Juſtice hall appoint, prove who he bought it of, then uch Perſon ſhall be deemed convicted of the utting and ſpoiling of Wood, within the Sraute of 43 *Eliz.* and for the firſt Offence ſhall ive ſuch ſatisfaction to the Owner within ſuch ime as the Juſtice ſhall appoint, and pay over nd above preſently to the uſe of the Poor where the Offence is committed, ſo much Mony as the Juſtice ſhall appoint, not exceeding ten ſhillings: And for default of performance hereof, the Juſtice may commit the Offender to the Houſe of Correction for ſo long time as he ſhall think fit, not exceeding one Month, or otherwiſe to be whipped by the Conſtable, or other Officer; and for the ſecond Offence, the Offender is to be ſent to the Houſe

of

of Correction for one Month, and there h to hard Labour; and if he be convicted t third time, then to be punished as an incor gible Rogue, 15 *Car.*2. *c.*2.

If any Person buy any Burthens of Wo Underwood, Sticks, *&c.* of any who may j ly be suspected to have come by the same lawfully, upon complaint to a Justice, Head ficer, *&c.* and if upon Examination by O it appears, That the same were bought of s Person as aforesaid, the Justice may order Buyer to pay the treble value thereof to h from whom they were stollen; and for n payment, the Justice may grant his Warrant the Constable, to levy the same by distress sale of the Offenders Goods, rendring to Owner, the overplus, and for want of such stress, then to commit the Party to the G at his own charge, there to remain one Mo without Bail, *Stat. ibid.*

None is to be punished by this Statute, t have been punished by any former Law for t same Offence, and all Offenders within t Statute, must be prosecuted within six We after the Offence committed.

Highways. See *the Office of Surveyors of High ways and Bridges.*

CHA

CHAP. XVIII.

The Constables Office about Stoned-Horses.

NOne ought to put to feed upon Forests or Commons (except they be Commons where Mares are not usually kept) any stoned-Horse, being above two years old, and not fifteen hands high from the lower part of the Hoof to the upper part of the Wither, (every hand containing four Inches Standard measure) on pain to forfeit the same Horse, 32 *H.* 8. *c.* 13.

If any Stoned-Horse of lesser Stature be put to feed in any such Common (unless it be in Fen-grounds of the Isle of *Ely*, and of the Counties of *Cambridge*, *Huntington*, *Northampton*, *Lincoln*, *Norfolk* or *Suffolk*, where they need be but thirteen hands high) any Man may seize them to his own use, so that first by the assistance of the Keeper of the Ground, or Constable, Bailiff, Headborough, or other such Officer of the Parish adjoyning, such Horse be brought to the next Pound, and there by such Officer, in the presence of three other sufficient Men, he be measured, and found lower than the Statute, 32 *H.* 8. *c.* 13. 8 *Eliz. c.* 8. *Wingates Abr. Stat. Tit. Horses.*

Those that refuse to measure, or to be present at measuring, do forfeit 40 *s.* apiece for every such default, to be divided between the King and Prosecutor. But note, That an Horse that makes an Escape into such Common, shall not be questioned, so that he stay not above four days after notice

notice thereof at the Owners House, or in [the] Parish Church, 32 *H.8. c.*13.

Forests, and Common Grounds must be driv[en] yearly at *Michaelmas*, or within fifteen days aft[er] by the Keepers, Constables, or other Offic[ers] aboveſaid, on pain of forty ſhillings; and th[ey] have power to drive them at any other time [of] the Year, at their pleaſure, and ſuch likew[iſe] have the Owners of the Ground. And if up[on] the Drift any unlucky Tits ſhall be found, th[ey] may be killed, 32 *H.8. c* 13. *Wingates Abr. St[at.] Tit. Horſes.*

Note, That this Act of the 32 *H.8. c.*13. [is] not to extend to the County of *Cornwal*, 21 *J[ac.]* *c.* 28.

CHAP. XIX.

The Conſtables Office about Hue and Cry.

THE Conſtables or Tythingmen of eve[ry] Town, Pariſh or Village, to whom Hue and Cry ſhall come, ought to ſearch in [all] ſuſpected Houſes and Places within their Li[-] berties, and as well the Officers, as all oth[er] Perſons which ſhall purſue the Hue and Cry may take and ſtay all ſuch Perſons as in the Search and Purſuit they ſhall find to be ſuſpi[-] cious, and ſhall carry them before ſome Ju[-] ſtice of the County where they are taken to be examined, where they were at the time of the Felony committed; and if any default be in the Officers, they may be fined by the Ju[-] ſtices for their neglect, *Dalt. J.P. c*,28. *fol.*75.

Where

Where a Hundred is ſued for a Robbery, and damages are recovered againſt one or ſome few Inhabitants of the Hundred, and the reſt refuſe to contribute thereunto; in ſuch caſe two Juſtices of the Peace (one of the *Quorum*) dwelling within or near the Hundred, may for the levying thereof, ſet a Tax upon every Pariſh within that Hundred; according to which the Conſtables or Tythingmen of every Pariſh muſt tax the particular Inhabitants within their Liberties, and then levy the Mony upon ſuch as refuſe, by Diſtreſs and Sale of their Goods, reſtoring the overplus, if any be, and after the Mony is gathered, they are to reſtore the ſame to the Juſtices, or ſome of them that made the Rate, within ten days, 27 *Eliz. c.* 13. *Dalt. J.P.* 148. *fol.* 132.

That Hundred where Freſh Suit ſhall ceaſe, ſhall anſwer half the Damages to the Hundred where the Felony was committed, to be recovered in any Court at *weſtminſter*, in the Name of the Clerk of the Peace of the County where the Felony was committed; in which caſe the Death or Change of the Clerk of the Peace, ſhall not abate the Suit. And this Recovery is to be taxed and levied as the former, 27 *Eliz. c.* 13.

Where any one of the Robbers is apprehended, or where the Action is proſecuted within one Year after the Robbery committed, the Hundred is not chargeable for the Robbery. Obſerve likewiſe, that the Hue and Cry ſhall not be judged legal, unleſs the Purſuit be both by Horſe and Foot, *Bract. lib.* 3. *fol.* 121. *Dalt. J.P. f.* 133.

He

He that goeth not at the command of the Sheriff or Constable at the Cry of the Coun that is, upon Hue and Cry to arrest Felo after Attainder, shall be grievously fined a imprisoned, *Westm.* 1. *c.* 9. *Co.* 2 *part, Inst.* f 172.

CHAP. XX.

The Constables Office about Labourers, &c.

THE Constable in the time of Hay a Corn Harvest, upon request to hi made by any Man that wants Labourers, to g in his Harvest, to prevent loss thereof, m cause all such Artificers as he shall see me to labour, to serve by the Day for Mowin Reaping, or otherwise, for the getting in Corn or Hay abroad, according as they see fit and able to perform. And if such Pe sons shall refuse to work, after they are re quested thereunto, the Constable may set the in the Stocks, by the space of two days a one night; and if the Constable neglect t perform his Office herein, he forfeits forty shi lings, 5 *Eliz. c.* 14.

No Person retained in Husbandry, or i any Arts appointed by that Statute, shall de part after the time of such retainer expired, ou of the City, Town or Parish where he las served, to serve in another without a Testi monial, (*viz.* in a Town Corporate, under the Hands and Seals of the Magistrate, and two Housholders there; and in the Country under the Hands and Seals of the Constable (or other

Officers)

ficers) and two Housholders of the Town or rish where he last served; which Testimo- al is to be registred by the Minister; for hich he is to have two pence, and then to delivered to the Party, 5 *Eliz.* c. 4.

The Form of a Testimonial for a Servant.

MEmorandum, *That* J. S. *Servant to* J. D. *of* Bramsil *in the County of* Southampton, *oman, is licensed to depart from his said Ma- r, and is at liberty to serve elsewhere, accord- g to the Statute in that case made and pro- ded. In witness whereof we have hereunto our Hands and Seals this* 25*th day of* Au- st, *in the* 22*th Year of the Reign of our acious Sovereign Lord King* Charles *the Second,* 70.

Ri. Turner, *Constable of* Bramsil.
R. C. & J. D. *Housholders there.*

If it be one that lives with a Woman, then y, [*is licensed to depart from his Mistress or me*, as she is;] if the Master be not a coman or Husbandman, but an Handycrafts- an, as Taylor, Smith, *&c.* then Name him in the Testimonial.

The Master that retains a Servant without ch a Testimonial, forfeits 5 *l.* being thereof nvicted by Indictment taken in the Sessions the Peace; and every Servant which shew- h not such a Testimonial to the chief Officer a Corporation, or to the Constable or other fficer, Minister or Churchwarden of the place here he is to dwell, may be imprisoned until he rocure one, and if he produce not one within one

one and twenty days next after the first day of Imprisonment, or if he shall shew a false or counterfeit one, then he is to be whipt and used as a Vagabond, 5 *Eliz. c.* 4. *Dalt. J.P. c.* 31. *f.* 63.

This Statute, as to this particular of Testimonials, is now grown in a manner quite obsolete, so seldom used, that it's scarce known. Although the Penalty in the same be strict and severe, yet it is of good use; and so are a great many Penal Statutes more very beneficial to the Commonwealth, if they were duly put in execution, especially those enacted to punish the daily Offences of Brewers, Bakers, Alehouses; all such as use false Weights or Measures, Millers, Forestallers, Ingrossers, Regrators, &c. *multis aliis*, &c. These are the Caterpillars of the Kingdom.

CHAP. XXI.

The Constables Office about Malt-making.

THE Constables and Bailiffs of any Town ought from time to time to view and search all such Malt as shall be made or put to sale within any of their Liberties, and if they find any being evil made, or mingled with other Malt, then the Constable or Bailiff, with advice of one Justice of Peace, may sell the same to such Persons at such a Rate as the Justice thinks fitting, 2 *E.* 6. *c.* 10. 21 *Jac. c.* 28. 3 *Car. c.* 4.

Stat. 2 *E.* 6. *c.* 10. There are three sorts of evil and deceitful Malt, *viz.*

1. Whe

1. Where Barley and Malt hath not in the aking thereof in the Var, Floor, Steeping nd Drying thereof, three Weeks at the leaſt; xcept it be in *June*, *July*, and *Auguſt*, and thoſe Months it muſt have ſeventeen Days; nd under ſuch time it cannot be made whole-me.

2. They ought to take out of every Quarter Malt half a Peck or more of Duſt, by reading, Rubbing and Fanning the ſame, be-re they put the ſame to ſale, or elſe they rfeit 20 Pence for every Quarter otherwiſe ld, to be divided between the King and the former.

3. If any Malt ſhall be put to ſale, not well ade, according to the limited time, or made Mow-burnt, or Spired Barley, or mixed ood and bad together, they forfeit two ſhil-ngs for every Quarter, to be divided as afore-id.

This Act extends not to ſuch as make Malt r their own Proviſion only; and the Forfei-res aforeſaid muſt be proſecuted within one ear.

CHAP. XXII.

e Conſtables Office about diſturbing of Miniſters.

IF any Perſon purpoſely without Authority diſturb a Preacher lawfully licenſed, in reaching, Praying or Adminiſtration of the acraments, either by Talking, Laughing, Hum-ing, or the like; any Conſtable or Church-arden of the Place ought preſently to appre-

hend the Party, and carry him before a Justi of the Peace of the same County, who m commit him to safe custody; and within days after (with another Justice of the Pea they may examine the Matter; and if th find it true by two Witnesses, they must co mit him to the common Goal, there to main for three Months, and from thence the next Quarter Sessions; at which, up the Parties Reconciliation, and entring in Security for one whole Year, he may be r leased, (at the discretion of the Justices; but if he continue still in his obstinacy, he m continue in Prison, without Bail, till he be p nitent, 1 *Mar. Sess.* 3. *c.* 3. *Wingates Stat.* 7 *Sacraments, Dalt. J.P. c.*41.*f.*103.

He that Rescues an Offender in this kin shall suffer like Imprisonment, and forfeit fi pounds; and the Inhabitants that suffer such Offender to escape, being presented before t Justices at their Sessions of the County or Co poration where the Offence was made, do a forfeit five pounds, *Idem.*

CHAP. XXIII.

The Constables Office about Moss-Troopers.

THE Constables, and other Officers with the Counties of *Northumberland* and *Cumberland*, upon Warrant from the Justices of th Peace, are to levy by Distress and Sale of th Parties Goods (rendring the overplus to th Owners) all such Sums as shall be charged up on any Person within their several Constable

es, by the Justices at their Sessions, for the
feguard of the Counties against the Injury,
heft and Rapine of Mos-Troopers: And the
stices also may examine any Complaint a-
inst the Constables, or other Officers that shall
eglect, or refuse, or fail to give obedience to
e Act, or do any thing in disturbance thereof,
d bind over such Person to the Quarter Sessi-
ns, to be proceeded against according to Justice,
3 & 14 *Car.2. c.22.*

This Act was by the Stat. 29 & 30 *Car.2. c.2.*
vived, and to continue for 7 years, and to the
d of the first Session of the next Parliament.

And by 1 *Jac.* continued for 11 years, and
om thence to the end of the first Session of
e next Parliament.

CHAP. XXIV.

The Constables Office about the Peace.

THE Constable ought to do what he can to keep the Peace, but he cannot take Surety of the Peace, at the request of any Man, *H.7. fol.18. A.Cromp.6.12.*

The Constable, or other Officer, before he Arrest the Party upon a Warrant for the Peace, ought first to acquaint the Party therewith, and charge him in the Kings Name to go along with him to the Justice, to put in Sureties, according to the Warrant; and if the Party refuse so to do, then the Officer ought forthwith to take and convey him to the Goal, without carrying him to any Justice at all, there to remain till he doth find Sureties;

and then at the next Sessions of the Peace, t
Officer ought to deliver in his Warrant, a
certifie what he hath done therein, *Dalt. c.*

If the Party yield to go, and find Sure
then the Officer may not absolutely Arrest h
yet he is not bound to go up and down w
him till he can get Sureties, but he may k
him till he can get Sureties to come unto h
and if the Party make resistance, or offe
go away afterwards, the Officer may c
him to the Goal, or set him in the Stocks
he can get aid to carry him to the Goal, *D*
69. f. 166.

If an Officer having a Warrant from a Just
of Peace, against a Man to find Sureties
the Peace, and do afterwards receive a *Su*
sedeas out of the Chancery or Kings Bench,
from another Justice of Peace of the sa
County to discharge the same Surety of
Peace; and yet, nevertheless the Officer
cause the Party to find Sureties by virtue
the Warrant, the Party may refuse to give
and if he be arrested or imprisoned for s
refusal, he may have his Action of False Imp
sonment against such Officer; for the *Su*
sedeas is a Discharge of the former Warra
Dalt. J.P. c.69. f.168.

If a Constable be informed, that a Man a
Woman be in a Adultery or Fornication t
gether, or that a Man and Woman of Evil R
port are gone to a suspected House togeth
in the Night, the Constable may take Compa
with him, and if he find them so, he may c
ry them before a Justice of the Peace to fi
Sureties for their Good Behaviour, *13 H. 7.* 1
Dalt. J.P. c.75. f.189.

If any shall abuse a Constable in the execution of his Office, the Constable may have him bound to the Good Behaviour for it, *Fitz. Bar.* 207. *Cromp.* 135.

Any injurious Force or Violence used against the Person of another, his Goods, Lands, or other Possessions, whether it be by threatning Words, or furious Gestures, or force of the Body, or any other Force used *in terrorem*, is said to be a Breach of the Peace, *Dalt. c.* 3. *fol.* 9.

CHAP. XXV.

The Constables Office about Physicians.

THE Constables, and other Officers in *London*, and within seven Miles round, are to be aiding and assisting to the President of the Colledge of Physicians, and all Persons authorized by the said Colledge, for the due execution of the Laws and Statutes belonging to the said Colledge, upon Pain of running into contempt to the King, 1 *Mar. Par.* 1. *Sess.* 2. *c.* 9. *Swingates Stat. Tit. Physicians.*

CHAP. XXVI.

The Constables Office about the Plague.

IF any Person infected, or being, or dwelling in an House infected with the Plague, shall be by the Constable commanded to keep his House, and notwithstanding shall wilfully go

abroad, and converse in Company, having infectious Sore on him, it is Felony, and such Person shall not have such Sore about h yet for his Offence he shall be punished as a gabond, by the appointment of any one Jus of the Peace, and further, shall be bound to Good Behaviour for one whole Year, *Wing Stat. Tit. Plague*, 1 *Jac. c.* 13. *Dalt. J.P. c. fol.* 91.

The Justices of Peace, or any one of th and other Head Officers in Corporate Tow within their several Limits, may appoint Sear ers, Watchmen, Examiners, Keepers and B ers for the Persons and Places infected, and any Person infected, or dwelling, and being in House infected, shall contrary to the comma ment or appointment of the Justice of Peace, Constable, *&c.* wilfully attempt to go abroad, to resist such their Keepers or Watchmen, th may such Watchmen with Violence, force th to keep their Houses, and if any hurt happ thereupon, the Watchmen shall not be impea ed therefore, 1 *Jac. c.* 13. *Dalt. J.P. c.* 39. *f.* *Cromp.* 122. *b. Wingates Stat. Tit. Plague.*

If the Constable, or other Officer, wilfully ne lect to levy the Mony (by Warrant from th Justices of Peace, upon the Statute for Relief any Town infected with the Plague) by Distre and Sale of the Goods of such Persons as refu or neglect to pay; then they forfeit for ever such Offence ten shillings, to be Imployed to th said Charitable Use, *Wingates Stat. Tit. Plagu* 1 *Jac. c.* 31. *Dalt. J.P. c.* 39. *f.* 91.

CHAP

CHAP. XXVII.

The Constables Office about conveying Prisoners to the Goal.

AN Offender which is to be conveyed to Goal, must bear all Charges both of himself and of those that guard him, if he be able; and if he refuse to pay the Charges, or shall not at the time of the Commitment discharge the same, then upon a Warrant from a Justice of Peace, the Constable of the Liberty, or Town where the Offender hath any Goods (being within the same County) may sell so many of the Parties Goods, as in the discretion of the Justice shall be thought sufficient to satisfie the said Charges, the Apprizement to be made by four Inhabitants of the Parish where such Goods be, and the overplus to be returned to the Owner, 3 *Jac. c.*10. *Dalt. J.P. c.*43. *f.*104.

And if the Offender have no Goods to defray the Charges, then the Charge must be born by the Town or Parish where the Offender was taken, which must be done by Tax made by the Constable, Churchwardens, and two or three other Inhabitants; and where there are no such Officers, then four of the principal Inhabitants of the Parish must make the Rate, which being allowed under the Hand of a Justice of Peace, every Inhabitant must pay their proportion, according to the said Rate; and if any refuse to pay, the Constable, Tythingman, or other Officer, by Warrant from a Justice of the Peace, may levy the same by

Distress, and (after Apprizement by four of the Inhabitants) may sell the same, rendring to the Party refusing the overplus, if any be. 1 *Jac. c.* 10.

And if the Constable, or other Officer, that makes such Distress be sued, he may plead Justification, and upon a Verdict for the Defendant, or a Nonsuit of the Plaintiff, he shall recover treble Damages, besides Costs of the Suit.

Purveyance, See *Carriages*. Chap. 7. fol. 23.

CHAP. XXVIII.

The Constables Office about Quarter Mony for Maimed Soldiers, Prisoners, &c.

THE Constables and Churchwardens are to levy by Distress and Sale of the Offenders Goods, such Mony as is rated upon any Person within their Constablery, for the Relief of poor maimed Soldiers and Mariners, rendring the overplus to the Owner, 43 *Eliz.* 3. *Wingates Stat. Tit. Captains and Soldiers.*

And this Mony, so collected, is to be paid quarterly to the High Constable of the Hundred, ten days before every Quarter Sessions, or else the Constable and Churchwardens, their Executors, *&c.* forfeit twenty shillings: And the High Constable is to pay in the Collection Mony (to the Treasurers appointed by the Justices)

ſtices) every Quarter Seſſions, or otherwiſe he, his Executors, *&c.* forfeits 40 *s.* which forfeitures are to be levied and employed by the Treaſurer for the encreaſe of their Stock for the uſes aforeſaid, 43 *El. c.* 3. *& Wingates Stat. Tit. Captains and Soldiers.*

The High Conſtables are to make Quarterly Payment, at every Seſſions unto the Collectors appointed by the Juſtices, of all ſuch Sums of Mony as are raiſed in every Pariſh, and paid to them by the Churchwardens or Conſtables, for the Relief of the poor Priſoners in the Goal, under pain of five pounds, 14 *El. c.* 5. *Wingates Stat. Tit. Priſon and Priſoners.*

The Conſtables and Churchwardens are to levy by Diſtreſs and Sale of the Offenders Goods, ſo much Mony as is rated upon any Perſon within their Pariſh, for the Relief of the Priſoners in the Kings Bench and Marſhalſey, and alſo of Hoſpitals and Almſhouſes, and Relief of the Poor within their County, rendring the overplus to the Owner; and for want of ſuch Diſtreſs, the Juſtice of Peace may commit the Party to Priſon, there to abide till it be paid, without Bail or Mainprize, which Mony the Churchwardens are to pay to the High Conſtable ten days before the end of every Quarter Seſſions; and if the Churchwardens, their Executors, *&c.* fail to pay this Mony, they forfeit ten ſhillings, and if the High Conſtable, his Executors, *&c.* fail to pay the Treaſurers of the County the ſame Mony at the Quarter Seſſions, they forfeit twenty ſhillings; which Forfeitures the Treaſurers may levy by Diſtreſs and Sale as aforeſaid, and the Monies to be imployed to the uſes aforeſaid,

foresaid, 43 *Eliz. c.* 2. *Wingates Stat. Tit.* P *People, Dalt. J.P. c.* 53. *fol.* 135.

CHAP. XXIX.

The Constables Office about Popish Recusants.

POpish Recusants above Sixteen years of a shall within forty days after their convi on repair to their usual dwelling, and not remo above five Miles from thence, on pain to fors all their Goods and Lands, and Annuities, duri Life; and if they have no certain Abode, th are they to repair to the Place where they w Born, or where their Father and Mother dwel and within twenty days after their arrival, the to give their Names in Writing to the Minist Constables and Headboroughs, which Minister to enter them in a Book to be kept for that pu pose, and he, together with the said Constabl and Headboroughs, are to certifie the same to th next Quarter Sessions, where the Justice of Pea must cause the same to be inrolled, 35 *Eliz. c.* *Wingates Stat. Tit. Crown.*

The Constables and Churchwardens of ever Parish, or the one of them; if there be non such, then the High Constables of the Hundre there, are once every year to present at th General Sessions of the Peace, the monthly ab sence from Church of every Popish Recusant, an the Names of their Children, being above th Age of nine Years, abiding with their said Pa rents, and of their Servants, together with th Age of their Children as near as they can know them, on pain to forfeit respectively for ever

such

ſuch default twenty ſhillings; which Preſentment, the Clerk of the Peace, or Town Clerk ſhall Record without Fee, on pain of forty ſhillings, *Wingates Stat. Tit. Crown*, 3 *Jac. ch.* 4.

If the Miniſter, Petty Conſtable, and Churchwardens of any Pariſh, or any two of them, ſhall complain to any Juſtice of Peace, of any Perſon juſtly ſuſpected for Recuſancy, then any ſuch Juſtice may tender the Oath of Allegiance to the Perſon ſo ſuſpected; and if he refuſe to take it, and be of the Age of eighteen years or above, then the Juſtice may commit the Party to the Goal, there to remain until the next Aſſiſes or Seſſions of the Peace; and if then the Party refuſe again, he incurs a *Præmunire*, but if it be a Woman Covert, ſhe ſhall only be impriſoned, there to remain without Bail till ſhe take the ſaid Oath, *Wingates Stat. Tit. Crown*, *Dalt. J.P. c.*45. *fol.*108. 7 *Jac. c.*6.

1 *W.* and *M.* No Papiſt, or Reputed Papiſt (refuſing to make and ſuſcribe the Declaration enjoyned by 30 *Car.* 2. and the Oaths enjoyned in an Act for removing and preventing all Queſtions, *&c.* about the Aſſembling and Sitting of this preſent Parliament) ſhall at any time after the 15th day of *May*, 1689. have, or keep in his own Poſſeſſion, or in the Poſſeſſion of any other to his uſe, or at his diſpoſition, any Horſe or Horſes above the value of five pounds to be ſold, and that two or more Juſtices of the Peace, by Warrant under their Hands and Seals, may, and ſhall Authoriſe any Perſon or Perſons, with the Aſſiſtance of the Conſtable, or his Deputy, or the Tythingman, or Headborough, (who are required to be aiding and aſſiſting)

assisting) to search for, and seize for the use of their Majesties, and their Successors, all such Horses.

CHAP. XXX.

The Constables Office about distraining for Rent.

BY 2 *W* and *M* It is Enacted, That from and after the first day of *June*, 1690. Where any Goods or Chattels shall be distrained for any Rent reserved and due upon any Demise, Lease or Contract whatsoever, and the Tenant or Owner of the Goods so distrained, shall not within five days next after such Distress taken, and notice thereof (with the cause of such taking) left at the Chief Mansion House, or other most notorious Place on the Premisses, charged with the Rent distrained for, replevy the same, with sufficient Security to be given to the Sheriff, according to Law, That then, in such case, after such Distress, and notice, as aforesaid, and expiration of the said five days, the Person so Distraining, shall and may with the Sheriff or Under Sheriff of the County, or with the Constable of the Hundred, Parish or Place where such Distress shall be taken, (who are hereby required to be aiding and assisting therein) cause the Goods and Chattels so distrained, to be appraised by two Sworn Appraisers (whom such Sheriff, Under Sheriff, or Constable, are hereby impowered to swear) to appraise the same truly, according to the best of their Understandings; and after such Appraisement, shall and may

lawful

lawfully ſell the Goods and Chattels ſo diſtrained, for the beſt Price can be gotten for the ſame, towards ſatisfaction for the Rent, for which the ſaid Goods and Chattels ſhall be diſtrained, and of the Charges of ſuch Diſtreſs, Appraiſement and Sale, leaving the Overplus (if any) in the Hands of the Sheriff, Under Sheriff, or Conſtable, for the Owners uſe.

And that it may be lawful for any Perſon or Perſons having Rent, arrear and due upon any ſuch Demiſe, Leaſe or Contract, as aforeſaid, to ſeize and ſecure any Sheaves or Cocks of Corn, or Corn looſe, or in the Straw, or Hay lying or being in any Barn or Granary, or upon any Hovel, Stack or Rick, or otherwiſe upon any part of the Land or Pound charged with ſuch Rent, and to lock up, or detain the ſame in the place where the ſame ſhall be found, for, or in the nature of a Diſtreſs, until the ſame ſhall be replevied upon ſuch Security to be given, as aforeſaid; and in default of Replevying the ſame, as aforeſaid, within the time aforeſaid, to ſell the ſame after ſuch Appraiſement thereof to be made; ſo as nevertheleſs ſuch Corn, Grain or Hay ſo diſtrained, as aforeſaid, be not removed by the Perſon or Perſons diſtraining to the Damage of the Owner thereof, out of the Place where the ſame ſhall be found and ſeized, but be kept there (as impounded) until the ſame ſhall be replevied, or ſold in default of replevying the ſame within the time aforeſaid.

And, that upon any Pound-breach or Reſcous of Goods or Chattels, diſtrained for Rent, the Perſon or Perſons grieved thereby, ſhall in a ſpe-

a ſpecial Action upon the Caſe for the Wron thereby ſuſtained, recover his and their treb Damages and Coſts of Suit againſt the Offe der or Offenders, in any ſuch Reſcous or Pound breach, any or either of them, or againſt th Owners of the Goods diſtrained, in caſe th ſame be afterwards found to have come to hi uſe or poſſeſſion.

And it is provided, That in caſe any ſuc Diſtreſs and Sale, as aforeſaid, ſhall be mad by virtue or colour of this preſent Act fo Rent, pretended to be arrear and due, when in truth no Rent is arrear or due to the Per ſon or Perſons diſtraining, or to him or the in whoſe Name or Names, or Right, ſuch Di ſtreſs ſhall be taken, as aforeſaid; that then th Owner of ſuch Goods or Chattels diſtraine and ſold, as aforeſaid, his Executors or Ad miniſtrators, ſhall and may by Action of Tre paſs, or upon the Caſe, to be brought againſt the Perſon or Perſons ſo diſtraining, any or either of them, his or their Executors or Ad miniſtrators, recover double the value of the Goods or Chattels ſo diſtrained and ſold, to gether with full Coſts of Suit.

CHAP. XXXI.

The Conſtables Office about Riots and Routs.

SHeriffs, Conſtables, and all other the Kings Officers, ſhall ſuppreſs Rioters, and impriſon them, and all other Offenders againſt the Peace, 27 *R.*2. *c.*8.

Where

Where three Perſons or more ſhall come and aſſemble themſelves together, to the intent to do any unlawful Act with force or violence againſt the Perſon of another, his Poſſeſſions or Goods, as to kill, beat, or otherwiſe to hurt, or to impriſon a Man; to pull down a Houſe, Wall, Pale, Hedge or Ditch; wrongfully to enter upon, or into another Mans Poſſeſſion, Houſe or Land, *&c.* or wrongfully to cut or take away Corn, Graſs, Wood, or other Goods; or to hunt unlawfully in any Park or Warren, or to do any other unlawful Act, (with force or violence) againſt the Peace, or to the manifeſt Terror of the People; if they only meet to ſuch a purpoſe or intent, although they ſhall after depart of their own accord, without acting any thing, yet it is an unlawful Aſſembly, becauſe of their Intention at firſt, *Bro. Tit. Riot.* 4, 5. *Co.* 3 *Part Inſtitutes, fol.* 176. *Dalt. J. P. c.* 85. *fol.* 217.

And if after ſuch Meeting they ſhall ride, move or go forward, towards the execution of ſuch Act, whether they put their intended purpoſe in execution or not, this is a Rout. And if they do act any ſuch thing indeed, then it is a Riot.

CHAP.

CHAP. XXXII

The Conſtables Office about Rogues and Vagabonds.

THE Conſtable, Tythingman or Headborough, aſſiſted by the Miniſter, and one other of the Pariſh, is to ſee (or do it himſelf) Rogues and Vagabonds, which ſhall be taken begging, ſtripped naked from the Middle upwards, and openly whipped till their Body be bloody, and then forthwith to be ſent away from Pariſh to Pariſh, or Tything to Tything, the next ſtreight way to the place of their Birth; and if that cannot be known, then to the place where they laſt dwelt, by the ſpace of one whole year, before ſuch puniſhment; and if that cannot be known, then to the Town through which they laſt paſſed unpuniſhed: and when they come there, if it cannot be diſcovered where they were born, or laſt dwelt, as aforeſaid, then are they by that Conſtable to be conveyed to the Houſe of Correction, or common Goal of that County, to be imployed in Work, or placed in ſome Service, and ſo to continue by the ſpace of one year; or in caſe they be not able in Body, that Town is to keep them, till they may be placed in ſome Almſhouſe within the ſame County, 39 *Eliz. c.*4. *Wingates Stat. Tit. Vagabonds, Reſolu. Judges ſect.* 717. *Bolſt.* 2 *part Rep. fol.* 258.

After ſuch puniſhment, the Vagabond is to have a Teſtimonial under the Hand and Seal of the Conſtable, Tythingman, *&c.* and the Miniſter of the place, teſtifying the day and the place of his puniſh-

uniſhment, the place to which he is to be onveyed, and the time limited for his paſſage ither; which time if by his own default he xceeds, he ſhall incur the like puniſhment om time to time, till he arrive at the place mited. The ſubſtance of the Teſtimonial is o be entred by the Miniſter in a Regiſter Book, hich he is to keep for that purpoſe on pain f 5 s. *Dalt. f.* 129.

The Form of a Teſtimonial for conveying a Rogue or Vagabond.

W. W. *a ſturdy vagrant Beggar (aged about forty years) tall of ſtature, red haired, and long lean viſaged, and ſquint-eyed, was this* 24*th day of* A. *in the* 22*th year of the Reign of Our Gracious Sovereign Lord King* Charles *the Second, &c. openly whipped at* T. *in the County of* G. *according to the Law for a wandering Rogue; and is aſſigned to paſs forthwith from Pariſh to Pariſh, by the Officers thereof, the next ſtreight way to* W. *in the County of* B. *where he confeſſeth he was Born; and he is limited to be at* W. *aforeſaid, within twelve days now next enſuing, at his peril. Given under the Hands and Seals of* C. W. *Miniſter of* T. *aforeſaid, and of* J. G. *Conſtable there, the day and year aforeſaid.*

A Juſtice of Peace alone may under his Hand and Seal make ſuch Teſtimonial, *Lambert* 206.

If any Conſtable, Tythingman or Headborough be found negligent in the due execution of the Act of the 39th of *Eliz.* aforeſaid, he forfeits ten ſhillings for every Default. And ſuch

Perſons

Perſons as ſhall hinder the Execution of
Law upon Rogues, forfeit five pounds, and
to be bound to the Good Behaviour. And
Conſtable refuſe to receive a Rogue, and to c
vey him or her to the next Conſtable; or if
do receive him, and not convey him to the n
Conſtable, he forfeits five pounds, and may
bound to the Good Behaviour, 39 *Eliz.*
Dal. on c. 47. *fol.* 128. *Reſolu. Judges ſect.*
14.

Every Perſon ſhall apprehend, or cauſe
be apprehended ſuch Rogues as he ſhall
or know to reſort to his Houſe to beg, or
ceive any Alms, and him or them ſhall ca
or cauſe to be carried to the next Conſtable;
elſe ſhall forfeit for every ſuch Default
ſhilling, and the Conſtable is to whip and c
vey ſuch Rogues, as before is directed, on p
of twenty ſhillings, 1 *Jac. c.* 7. *Dalt. c.* 47.
128. *Reſolu. Judges, ſect.* 13, 14.

Two Juſtices of Peace, (one of the *Quor*
by Warrant under their Hands and Seals, m
cauſe to be levied, by Diſtreſs and Sale of t
Offenders Goods, all the Fines and Forfeitur
aforeſaid, after Conviction of the Party, whi
muſt be either by Confeſſion of the Party;
Proof of two Witneſſes before the ſaid J
ſtices, 39 *Eliz. c.*4. *Dalt. c.*47. *fol.* 149. 1 *Ja*
c. 7.

Conſtables or Tythingmen neglecting
ſearch for Rogues upon the Juſtices Warra
or to appear at their Meeting, to give an a
count what Rogues have been puniſhed, or ſe
to the Houſe of Correction; or if they negle
to convey ſuch to the Houſe of Correction,
by Warrant are to be ſent thither, they ar

liable

liable to ſuch Fine as the Juſtices pleaſe, not exceeding forty ſhillings, 7 *Jac. c.* 4.

Any Juſtice of the Peace may reward any Perſon or Perſons, who ſhall apprehend, and bring before him any Rogue, Vagabond, or ſturdy Beggar, by granting to ſuch Perſon a Warrant under his Hand and Seal, to the Conſtable or Tythingman of the place through which the Rogue did paſs unapprehended; ordering the ſaid Conſtable, *&c.* to give ſuch Perſon two ſhillings for every Rogue ſo taken: And if the Conſtable, *&c.* refuſe to pay it, the Juſtice of the Peace may proceed againſt ſuch Officers, according to the Stat. 1 *Jac.* 7. and compel him to pay his Forfeiture by the ſaid Statute, and to allow the ſaid two ſhillings out of the ſaid Forfeiture, to ſuch Perſon, with ſuch further Allowance for loſs of time, as the Juſtice ſhall think fit, 1 *Jac.* 7. 14 *Car.* 2. *c.* 12.

If any Perſon ſhall apprehend any Rogue, at the Confines of any County, which paſſed through any Pariſh of another County unapprehended, then the Perſon ſo apprehending ſuch Rogue, muſt carry him to ſome Juſtice of Peace of the County through which he paſſed unapprehended, who (upon a Certificate under the Hand of ſome Juſtice of Peace of the County where ſuch Rogue was apprehended) is to grant his Warrant to the Conſtable, *&c.* to pay two ſhillings, as aforeſaid; which if he refuſe or neglect, then the Juſtice is to proceed againſt the Conſtable, *&c.* and cauſe him to pay ten ſhillings to the Party, or ſo much thereof for loſs of time as the Juſtice ſhall think fit, 14 *Car.* 2. *c.* 12.

And also, That whereas Constables, Tythingmen, &c. are at great Charges in R[e]lieving, carrying with Passes, and conveying Rogues, &c. all Constables, Tythingmen, &c. so out of Purse, with the Churchwardens and Overseers of the Poor, and other Inhabitants of the Parish, may make a Rate, and tax the Inhabitants of the Parish, which are chargeable by the 43 of *Eliz.* which Rate must be confirmed under the Hands and Seals of two Justices of the Peace. And if any Person refuse to pay his Rate, then the Constable, by Warrant from two Justices of Peace, may levy the same upon the Goods of the Party refusing, rendring them the Overplus, if any remain thereof, 14 *Car.* 2. *c.* 12.

All these Persons hereafter named, are accounted and adjudged Rogues, Vagabonds, and sturdy Beggars: That is to say, All such Persons above the Age of seven years, Man or Woman, Sole or Covert, that wander from their usual place of Abode, abroad, everywhere begging; or if they do not beg, yet if they wander and loiter about without a lawful Pasport, and give no good account for their Travel, are accounted Rogues, 39 *Eliz.* *c.* 4. & 17. 43 *Eliz.* *c.* 2. 1 *Jac.* *c.* 7. 21 *Jac.* *c.* 28. 7 *Jac.* *c.* 24. 5 *Eliz.* *c.* 4. *Dalt.* *c.* 47. *fol.* 123, 124, 125.

All Scholars and Seafaring men which beg, wandring Persons that use unlawful Games, subtil Craft or Plays, or pretending themselves to have skill in Physiognomy, Palmistry, or the like; or to be Fortune-tellers, or Figure-casters.

All

All Proctors, Patent-gatherers, (except for Fire) Collectors for Goals, Priſoners or Hoſpitals, wandring abroad; Fencers, Bearwards, (thoſe are Rogues in Grain) common Players of Interludes, and Fidlers or Minſtrels, wandring abroad.

All Juglers, Hocus Pocus, and Slight of Hand Artiſts, Tinkers, Pedlars, and Petty Chapmen and Glaſs-men, wandring abroad, eſpecially if they be not well known, or have not a ſufficient Teſtimonial; all counterfeit *Egyptians*, not being Felons; all Perſons delivered out of Goals, which beg for their Fees, or otherwiſe do travel begging; ſuch as go to or from the Baths, and do not purſue their Licenſe, Soldiers and Mariners that beg, and counterfeit a Certificate of their Commanders.

All Labourers which wander abroad out of the Pariſh, and refuſe to work for Wages reaſonably taxed, having no living otherwiſe to maintain themſelves; and ſuch as go with a General Paſport, which is not directed from Pariſh to Pariſh.

All theſe are accounted Rogues, Vagabonds, and ſturdy Beggars.

All Servants that depart out of their Service, (*viz.* out of one City, Town or Pariſh to another, or out of one Hundred or County to ſerve in another) without a Teſtimonial, or with a falſe one; and ſuch Perſons as are ſick of the Plague, and wilfully go abroad in Company, againſt the command of Officers, are to be puniſhed as Vagabonds; but none are to be ſent to the place of Birth or laſt Habitation, but wandring Rogues. Thoſe which beg in their

their own Parish, or in High ways, (witho the appointment of the Overseers) are to sent to the House of Correction.

A Wife and Children under seven years Age, being vagrant, must be placed with t Husband; and if the Husband be dead, th with the Wife where she was born, or l dwelt; and vagrant Children above sev years of Age, must be sent to the place their Birth; and if the Vagrant Parents, wh their Children under seven years of Age, placed at the place of Birth of the Parents, at the place of Dwelling; if afterwards t Parents, or either of them die, or run awa yet the Children once settled, must rem there still, and may not be sent to the place their Birth, though afterwards they attain the Age of seven years, 39 *Eliz. c.* 4. *Dalt. J.* c 47. *fol.* 135. *Resolu. Judges, sect.* 4, 5.

The Wife being but a vagrant Rogue, ough to be sent to her Husband, though he be b a Servant in another Town or Parish; and th Rogue whose place or dwelling cannot be know having Wife or Children under seven years Age, they must go with the Husband to th place where they were last suffered to pa through unpunished; where the Children mu be relieved with the Work of their Parent though their Parents be committed to the Hou of Correction.

CHAP.

CHAP. XXXIII.

The Constables Office about keeping the Sabbath.

THE Constable by Warrant from a Justice of Peace, (or the Chief Officer of any ity, Borough, or Town Corporate) under eir Hand and Seal, against such as use unlawful ames on the Sabbath-day, as Bull-baiting, Bear-iting, Enterludes, or other unlawful Exercises ithin their own Parish, or out of their own Pa-sh at any such Sports whatsoever, may levy the enalty of three shillings and four pence, by istress and Sale of the Offenders Goods, ren-ring the overplus to the Owners; and in de-ult of Distress, the Constable is to set the Of-nders in the Stocks by the space of three hours; ote, That the Party offending in these Games, ust be questioned within a month after the Of-nce committed, 1 *Car.* 1. *c.* 1. *Dalt. J.P. c.* 23. *l.* 63.

If any one on the Sabbath-day, keep, or be resent at any Wrestling, Shootings, Bowlings, inging of Bells for Pleasure, Mask, Wake, hurch Ale, Dancing, Games, Sport or Pastime hatsoever, they forfeit five shillings, if he or e be above fourteen years of Age, and if un-er that Age, then twelve pence by him that ath the Government of the Party, to be levied y Sale and Distress by the Constable, by War-ant from a Justice of Peace, or Chief Officer, s aforesaid; and for want of Distress, to be set hree hours in the Stocks. And every Carrier oing with his Horses on this day, or Wagoner, Carrier or Waynman going with any Wagon,

Cart

Cart or Wayn, or Drover with his Cattel, for
twenty ſhillings for every Offence, to be lev
alſo by Diſtreſs and Sale of his Goods, if he
queſtioned within ſix weeks after the Offe
done; but there muſt be but one twenty ſh
lings forfeit for one Journy, although they
through ſeveral Pariſhes, and this twenty ſh
lings that Pariſh ſhall have where the Diſtr
is firſt taken, 3 *Car.* 1. *c.* 1. *Dalt. c.* 50.
134.

And if any Butcher by himſelf, or any for h
ſhall kill or ſell any Victuals upon the Lo
day, he forfeits ſix ſhillings and eight pence,
be levied by the Conſtable, by Diſtreſs and S
as aforeſaid, upon Warrant from a Juſtice
Peace, *&c.* the Offence to be queſtioned wit
ſix weeks after it is committed, and the Par
to be convicted before any Juſtice of Pe
Mayor, or Head Officer, *&c.* upon their o
view, proof of two Witneſſes or more, or
Parties own confeſſion, and the Juſtice, May
&c. may reward the Informer with the thi
part of the Penalty, 3 *Car.* 1. *c* 1. *Dalt. J.P. c.*
fol 134.

All Laws in force concerning the Obſervati
of the Lords day, ſhall be put in Executio
none ſhall do any Work, by Labour or Buſine
that day, (Works of Charity and Neceſſity o
excepted:) and the Offender, if of the Age
fourteen years or upwards, ſhall forfeit fi
ſhillings: none ſhall cry, or expoſe to ſale a
Wares that day, on pain to forfeit them:
Drover, Horſe-Courſer, Waggener, Butche
Higler, or their Servants, ſhall travel on th
Lords day, on pain to forfeit twenty ſhillings
no Perſon ſhall travel on that day with any Boa
Wherry,

Wherry, *&c.* except on extraordinary occasion to be allowed by a Justice of Peace, or Head Officer of the place, *&c.* on pain to forfeit five shillings, 29 *Car.*2, *c.*7.

The Justice of Peace, or Chief Officer of the City, Borough, *&c.* before whom the Offender is convicted, by View, Confession, or Oath of one Witness, shall give Warrant to the Constables or Churchwardens, to seize the Goods tried, or put to sale, and to sell them, and to levy the other Penalties by distress and sale of Goods, and in case of inability, *&c.* to set the Offenders in the Stocks for two hours: the Penalties to be to the Poor of the Parish where the Offence is committed, saving that the Justice or Head Officer may reward Informers, the Reward not exceeding a third part of the Penalties. But Prosecution must be made upon this Act within ten days after the Offence committed, 29 *Car.*2. *c.* 7.

Dressing of Meat in Families, Inns, Cookshops, *&c.* and crying of Milk before nine in the Morning, or after four in the Afternoon, are not prohibited by this Act, 29 *Car.*2. *c.*7.

No Writ, Process, Warrant, *&c.* shall be served on the *Lords day*, except for Treason, Felony, or Breach of the Peace; but the Service shall be void, and the Party serving it shall answer Damages, as if done without Warrant, 29 *Car.* 2. *c.*7.

CHAP. XXXIV.

The Constables Office about profane Swearing.

IF any Person or Persons shall profanely Cu and Swear, for every time so offending th forfeit twelve pence; the Offence to be prov within twenty days after it is committed, the Oath of two Witnesses, or by Confession the Party before any Justice of Peace, or He Officer of any City or Town Corporate; w thereupon may issue out their Warrant to Constables, and Churchwardens, and Overse of the Poor of that Parish where the said Offe shall be committed, and the said Constables, a are to levy the Sum and Sums of Mony by distress and sale of the Offenders Goods, rendr the overplus, if any be, to the Owner, 21 J. c.20. 3 *Car.*1. *c.* 4. *Wingates Stat. Tit. Swearg Dalt. J.P. c.* 55. *f.* 138.

Note, Where no Distress is to be had, t Offender, if above twelve years of Age, sh by Warrant, as aforesaid, be set in the Stoc three whole hours; but if the Offender be u der the Age of twelve years, and shall not forth with pay the said Sum of twelve pence *per* Oa then he or she is to be whipped by the Constab or by the Parent, or Master, in the Constabl presence, 21 *Jac.* 6.20. 3 *Car.*1. *c.*4. *Dalt. J. c.*55. *fol.*138.

CHAP. XXXV.

The Constables Office about Tobacco Planting.

ALL Sheriffs, Justices of Peace, Mayors, Bailiffs, Constables, and every of them, upon Information or Complaint made to them, or any of them, by any of the Officers of the Customs, or by any other Person or Persons whatsoever, that there is any Tobacco set, sown, planted, or growing within their Jurisdictions or Precincts, (except such as is growing in any Physick-Garden of either University, or in any other private Garden, where the quantity of ground planted exceeds not one half of one Rood, in any one Place or Garden) they are within ten days after such Information or Complaint, to cause to be burnt, plucked up, consumed, or utterly destroyed, all such Tobacco so set, sown, planted or growing, 12 *Car.* 2. *c.* 34.

And if any Person or Persons shall resist, or make forceable opposition against any Person or Persons in the due execution of this Office as aforesaid, every Person or Persons for every such Offence, shall forfeit the Sum of five pounds, to be recovered in any Court of Record; and be so committed to the Common Goal of the County where the Offence was committed, there to remain without Bail or Mainprize, until he, she, or they do enter into Recognizance to his Majesty, his Heirs and Successors, with two sufficient Sureties in ten pounds Penalty, not to do or commit the like Offence again, 12 *Car.* 2. *c.* 34. 15 *Car.* 2. *c.* 7.

And now by the Stat. 22 & 23 *Car.* 2. I
further provided, That the Juſtice of Peace ſh
a month before every Quarter Seſſions, I
Warrants to High Conſtables, Petty Conſta
and Tythingmen, to make ſearch what Tob
is then ſown, planted or made, and by wh
and to make Preſentment thereof in Wri
upon Oath at the next Quarter Seſſions; wh
Preſentment ſhall be a conviction in Law,
leſs the Party (having ten days notice before
Seſſions) traverſe the ſame there, and find ſ
ties to proſecute his Traverſe the next Qua
Seſſions after ſuch Traverſe entred, 22 &
Car. 2. *c.* 26.

Conſtables, Tythingmen, and other pub
Officers, ſhall from time to time, within four
days after Warrant from two or more Juſti
of Peace, calling to them ſuch as they finde
venient, deſtroy all Tobacco planted or gr
ing in any Ground: If ſuch Tobacco be
conſumed fourteen days after receipt of
Warrant, ſuch Conſtables, Tythingmen, or o
Officers reſpectively ſhall forfeit five ſhil
for every Rod ſo ſet or planted, *&c.* and
portionably for a greater or leſs quantity;
moiety to the King, the other to him that
ſue for the ſame, 22 & 23 *Car.* 2. *c.* 26.

Perſons refuſing to aſſiſt the Conſtable,
being convicted before two Juſtices of Pe
ſhall forfeit five ſhillings, to be levied by diſt
and ſale of Goods, and for want thereof ſhall
committed for a week: And Perſons forc
reſiſting any Conſtable, *&c.* being convicted
aforeſaid, ſhall forfeit five pounds, to be levied
aforeſaid, and in default thereof, ſhall be co
mitted for three months, 22 & 23 *Car.* 2. *c.* 26.

Phyſi

Physick Gardens, and Gardens for Chirurgery excepted, as in the former Acts. Persons sued for acting in Pursuance of any of these three Acts of Parliament, may plead the General Issue, and give the special Matter in Evidence: This Act is to continue nine years, and from thence to the end of the Session of Parliament then next ensuing, 22 & 23 *Car.*2. *c.*26.

Continued 1 *Jac.*2. for seven years, and from thence to the end of the next Session of Parliament.

CHAP. XXXVI.

The Constables Office about Weights and Measures

ALL Cities, Boroughs, and Market Towns in *England*, ought to keep common Weights and Measures sealed, at which the Inhabitants may weigh freely; and all Foreiners must pay for every Draught under forty pounds, one Farthing; for a Draught between forty and an hundred, an Half-penny; and for a Draught between an hundred and a thousand, one Penny; wherewith the Weights are to be maintained; and the Officers which attend that Service are to be rewarded at the discretion of the Inhabitants, 8 *H.*6. *c.*5.

Every City which wants such Weights and Measures, forfeits 10 *l.* to the King, every Borough 5 *l.* and every Market Town 40 *s.* and the chief Officers of such places (upon request to them made) are to Mark and Seal such Weights and Measures to any of the Kings Subjects, taking for the marking of eve-

ry Bushel one Penny; and none ought to [h]ave with any other Weights and Measures, but [t]hose as are marked or sealed, 8 *H.* 6. *c.* 5. 11 *H.* 6. 4.

The Mayors and chief Officers in Cities, [&c.] are once every year, at least, to view all Measures and Weights in their Jurisdictions, [and] to break or burn such as they find defective, and to punish the Offenders for the first Offence six shillings eight pence, for the second thirteen shillings four pence, and for the third Offence, twenty shillings; and besides, may adjudge the Offenders to the Pillory, 11 *H.* 6. 4.

CHAP. XXXVII.

The Constables Office about Watches.

A Watch is to be kept in every Town, Parish, Village and Tything, every night from *Ascension* till *Michaelmas*, from Sun-set to Sun-rise, which the Constables, *&c.* must constantly cause to be set, and, that by two or four Men, according to the greatness of the place, 13 *Edw.* 1. *c.* 4. *Dalt. c.* 60. *f.* 140. *Pasch. Watch.* 1.

These Watchmen are to apprehend and examine all Strangers that pass by them in the Night, and if they find cause of suspition in them, then they may secure them till the Morning; and if the Parties refuse to obey the Watchmen, they may levy *Hue and Cry* to take them, and upon their resistance, the Watchmen may justifie the beating of them, and set them

hem in the Stocks or Cage till Morning; and hen if no ſuſpition be found in the Parties, ey may let them go; but if there be found ſpition in them, then the Watchmen may de-ver them to the Conſtable, or Tythingmen, *&c.* who is to convey them before a Juſtice of eace, who after Examination of them, may ind them over, commit or acquit them as he hall ſee cauſe. Theſe Watchmen are alſo to pprehend all ſuch as ride or go armed, and ll Rogues, Vagabonds, Noctivagants, Night-alkers, Eveſdroppers, Scouts, and ſuch like, *Dalt. c.* 60. *fol.* 140. 5 *Ed.*3.14. 5 *H.*7.5.

Theſe three particulars following, have been eld for Law concerning Watches, *viz. Dalt. J.P. c.*60. *fol.* 141.

1. The Watchmen muſt be Men of able Body, well and ſufficiently armed, and no Man is compellable to watch, unleſs he be an Inhabitant within the ſame Town or Pariſh where he is required to watch.
2. Such as are Inhabitants within the Town, are not compellable to watch at the will of the Conſtable, but only when their turn comes, according to the uſe and cuſtom of the place, which is moſt commonly by Turn or Houſe.
3. It hath been held by ſome, That if a Man, who is compellable to watch, ſhall contemptuouſly refuſe to watch, upon command of the Conſtable, that in ſuch caſe the Conſtable might, *ex Officio*, ſet the Party in the Stocks for his contempt, *Dalt. ibid.*

But the safest way is for the Constable to present such Person for his Default at the Assizes or Sessions of the Peace, or else to complain of him to a Justice of the Peace, who may bind the Offender to the Good Behaviour, and so over to the next Quarter Sessions, there to answer, &c.

CHAP. XXXVIII.

The Constables Office about Executing Warrants.

THE Constable, or other sworn Officer to whom any Warrant shall be directed and delivered, ought with all speed and secrecy to seek and find out the Party, and then to execute his said Warrant.

A known sworn Officer (be he Sheriff, Under Sheriff, Bailiff or Constable, &c.) need not to shew his Warrant to a Man when he comes to serve it upon him, though he demandeth it; but if the Justice will direct his Warrant to his Servant, or to another (who is no sworn Officer) to serve it, they must shew their Warrant to the Party, if he demand it, or otherwise the Party may make resistance, and needs not to obey it, *Bro. Faux Imprif.* 23.

A sworn and known Officer, if he will not shew his Warrant yet he ought to declare to the Party the Contents thereof upon serving it, *Co.* 6. 54. & 9. 68.

An Officer giveth sufficient notice what he is when he saith to the Party, *I Arrest you in the Kings Name*, &c. and in such case the Party, at his peril,

eril, ought to obey him, though he knoweth
m not to be an Officer; and if he have no
wful Warrant, the Party gieved may have
is Action of Falſe Impriſonment againſt him,
. 6.69.

If a Conſtable, or other Officer, do arreſt a
an for the Peace, or the like, before he hath
ny Warrant, and then afterwards doth pro-
ure a Warrant (or a Warrant cometh after to
im) to arreſt the Party for the ſame cauſe,
e firſt Arreſt was unlawful, and the Officer is
able to an Action of Falſe Impriſonment, *Dyer*
44. *Stat.* 43 *El. c.* 6.

Where a Warrant is granted againſt *I. H.* the
on of *T. N.* and the Officer thereupon arreſt-
th *I. H.* the Son of *W. H.* although in truth he
e the ſame Perſon that offended, and againſt
whom the complaint was made, yet this Ar-
eſt is wrongful, and the Officer is ſubject to an
Action of Falſe Impriſonment, 10 *E.* 4. *fol.* 12.
Falſe Impriſ. 58.

If a Conſtable, or any other Perſon, hath ar-
reſted a Man by virtue of his Warrant, which
he hath from a Juſtice of the Peace, and then
taketh his Word, that he will come to him
again at another time, to go with him to the
Juſtice according to his Warrant, (and ſo let-
teth the Party go) who comes not again at
the time appointed, it ſeems the Officer cannot
afterwards arreſt, or take him again by force
of his former Warrant, becauſe this was done
by the conſent of the Officer; but if the Party
arreſted had eſcaped (of his own wrong) with-
out the conſent of the Officer, the Officer may
take him again, and again, upon freſh Suit ſo
often as he eſcapeth, although he be out of

view, or that he fly into another Town
County. *Cromp.* 214. *a.* & 184. *Cro.* 53. 144.

When an Officer hath received a Warr
he is bound to observe and pursue the e
of his Warrant in every behalf and particu
or otherwise his Warrant will not excuse
of that which he hath done.

If a Constable, or other Officer, havin
lawful Warrant to arrest another, and he
be resisted or assaulted by the Party, or by
other Person, then may that Officer justifie
beating or hurting of such Persons, and ot
(upon his request) may and ought to aid
21 *H.* 7. 39.

If a Justice of Peace shall issue out any W
rant for a Matter wherein he hath Jurisdict
although it be beyond his Authority, yet
not disputable by the Constable, or other
Officer, but must be obeyed and executed
the Constable, or other Officer, to whom it
brought. As if a Justice of Peace shall
forth his Warrant to arrest one for the Pe
or Good Behaviour without cause, the Offi
that serves this Warrant, shall not be punish
for the executing thereof; but if a Justice
Peace shall make his Warrant to do a th
out of his Jurisdiction, or in a Cause where
the Justice of Peace is no Judge, if the Offi
shall serve such a Warrant, here he is puni
able; for the Officer is not bound to obey h
who is not Judge of the Cause no more th
a meer Stranger, for the Officer is bound
take notice of the Authority and Jurisdiction
the Judge, 14 *H.* 8. 16. *Br. Faux Imprif.* 8. *Co.*
26. *Cromp.* 74.

But if any Justice sends his Warrant to a Constable, or any other Officer, to bring him to answer all such Matters as shall be objected against him, and doth not specifie the Cause in his Warrant, wherefore he issued forth the same, this Warrant is unlawful, and the Officer is liable to an Action of False Imprisonment if he executes it.

So if a Justice of Peace send a Warrant to take one for Cozenage, to take and bring to a Justice, or to Goal, one that another doth suspect for Felony, where the Matter is small, or the Suspition slight, or to license a petty Chapman to sell from House to House, to send a poor Body to a place otherwise than the Law directs, such kind of Warrants are not Warrantable.

All Warrants not specifying the Cause, are utterly against Law, *Cooks Inst. part 4. Tit. de Frangent. Prison.*

Except for Treason, or Warrants from the Council, Secretaries of State, or Lord Chief Justice, these need not set forth the Cause for Reasons of State.

If any Man shall contemn or abuse the Justice of Peace his Warrant, as by casting it into the Dirt, or treading it under his Feet, *&c.* such Offender may be bound to his Good Behaviour for it, and be indicted and fined, it being a contempt against the Kings Process. *Cromp.* 144.

THE

THE Churchwardens OFFICE

CHAP. I.

The Antiquity of the Churchwardens Office, and how they are to be chosen.

THE Antiquity of the Office of a *Churchwarden* (when they first received that Title) is very uncertain; but some are of Opinion, that it was about eighty seven Years after *Britain* had received the Christian Faith, which most Historians do agree, was planted here in the Reign of King *Lucius*, in the Year of *Christ* CLXXX, who is hitherto called the first Christian King of this Isle; and that *Dionysius* in the Year CCLXVII did divide (both in *Rome* and other places) to Bishops their Dioceses; and Parishes, Churches and Churchyards to Priests, Vicars and Curats; whether at that time, or how long after Churchwardens were instituted, is not certainly known.

But

But all Authors do agree, that they are very ancient Officers, that these Churchwardens of Parishes are at the Common Law taken in the manner of a Corporation, 12 *H.* 7. *ult.* that is to say, Churchwardens at the Common Law are persons enabled by that Name to take Moveable Goods or Chattels, and to sue, or be sued at the Law concerning such Goods for the use and profit of their Parish. And they are to take care, see to, and preserve the Goods of the Church, *viz.* The Church-Book, Communion Cups, *&c.* and other decent Ornaments and Furniture of the Church, which they do find there at their coming into the Office.

In the Book of *Constitutions and Canons Ecclesiastical*, agreed upon in the Synod begun at *London Anno Dom.* 1603. and in the first Year of King *James*, it is appointed, that Churchwardens, Questmen, Sidemen, or Assistants in every Parish, shall be chosen by the joynt Consent of the Minister and the Parishioners, if it may be; but if they cannot agree upon such a choice, then the Minister shall chuse one, and the Parishioners another; and without such a joynt or several Choice, none shall take upon them to be Churchwardens; neither shall they continue any longer than one Year in that Office, except they be chosen again in like manner; and they are to be yearly chosen in Easter Week, *Canon* 89, 90.

But notwithstanding this *Canon*, where there is an ancient Custom in any Parish for the choice of Churchwardens contrary to the *Canon*, in such case the Custom is to be observed before the *Canon*, as shall be instanced in several cases hereafter mentioned.

If the Parishioners of a Parish have used time out of mind, *&c.* to chuse one Churchwarden, and the Parson or Vicar another, and afterwards a *Canon* is made, that the Vicar shall elect two, and he do so accordingly; and the Parishioners elect one, according to their Custom, and the Ordinary disallows him, and confirms the other two chosen by the Vicar, in this case a Prohibition shall be granted, *The Parishioners Case of* Rovenden *in* Kent, *Rolls Cases, part* 2. *f.*287. *Pas.* 5 *Jac. B. R.*

A Prohibition was granted against a Churchwarden chosen by the Parson of St. *Magnus* by *London* Bridge by force of a *Canon*, upon a Surmise, that the Parish had a Custom to chuse two Churchwardens, *Trin.* 7 *Car.*1. *B.R. between* Shirley *and* Brown, *Rot.* 1391. *Rolls* 2 *part, fol.* 287.

Warners Case, B.R. Pas. 17 *Jac.* The like was granted against a Churchwarden chosen by the Parson of St. *Alhallows London.*

Pas. 5 *Jac. Cro.* 2 *part Rep.* The Case of the Parishioners of *Walbrook London.*

Pas. 15 *Car* 1. *B.R.* The like against a Churchwarden chosen by the Parson of St. *Thomas* in *London, Cro.* 3 *part, Evelyns* Case.

Pas. 4 *Car.* 1. *B.R. Rot.*420. *Rolls Cases,* 2 *part fol.* 287. The like granted between *Draper* and *Stone* for *Abchurch* in *London.*

An Attorny cannot be made a Churchwarden; but if he be put in, and refuse, and be sued in the Spiritual Court, he may have a Prohibition, *Wilsons Case, Pas.* 14 *Car.* 1. *B. R.* & *Bakers Case, Trin.* 14 *Car.* 1. *B. R. Rolls Cases,* 2 *part, f.*272.

CHAP.

CHAP. II.

The Churchwardens Office about Profanation of the Sabbath, and of the Church.

THE Churchwardens are diligently to see that all the Parishioners duly resort to their Parish Church on Sundays and Holydays, and there continue the whole time of Divine Service; and none to walk, or stand idle, or talking in the Church, Church-yard or Church-porch, during that time; and all such as shall be found slack or negligent in resorting to the Church, (having no great or urgent cause of Absence) they shall earnestly call upon them; and if they amend not after due Admonition, they must present their Names to the Ordinary of the place, *Canon* 90. 5 *Ed.* 6. *c.* 1.

If the Churchwardens find any Person absent from the Church upon Sundays or Holydays in the time of Divine Service, Preaching, or other Holy Exercise, such Person is to pay 12 *d.* to the use of the Poor. And this extends as well to all Women Covert, as to other Persons; or the Churchwardens may present such Offenders in the Ecclesiastical Court; but they must not pay 12 *d.* and be presented too, 1 *Eliz. c.* 1. *Hob. Rep. f.* 97.

If the Officer find any Tipling, in any Inn or Alehouse, in the time of Divine Service, they forfeit 3 *s.* 4 *d.* more for Tipling, besides the 12 *d.* for being absent from the Church. And the Master of the House that suffers them to drink, forfeits 10 *s.* which Forfeitures are to the use of the Poor, 4 *Jac. c.* 5.

The

The Churchwardens, or Queſtmen, and their Aſſiſtants, ſhall ſuffer no Plays, Feaſts, Banquers, Suppers, Church Ales, Drinkings, Temporal Courts or Leets, Lay Juries, Muſters, or any other Profane Uſage to be kept in the Church, Chapel, or Church-yard; neither the Bells to be rung ſuperſtitiouſly upon Holydays or Eves abrogated by the Book of Common Prayer, nor at any other times without good cauſe, to be allowed by the Miniſter of the place, and by themſelves, *Can.* 88.

Neither the Miniſter, Churchwardens, nor any other Officer of the Church, ſhall ſuffer any Man to preach within their Churches nor Chapels, but ſuch as by ſhewing their Licenſe to preach ſhall appear unto them to be ſufficiently authorized thereunto, *Can.* 50, 85.

And the Churchwardens and Queſtmen are alſo to ſee that in every Meeting of the Congregation the Peace be well kept, and that all Perſons excommunicated, and ſo denounced, be kept out of the Church.

Every of the Perſons appointed by the ſaid Act, to take the Oaths of Supremacy and Allegiance, in the reſpective Court where he takes the ſaid Oaths, ſhall firſt deliver a Certificate of his receiving the Sacrament of the Lords Supper, as in and by the ſaid Act is likewiſe appointed, under the Hands of the reſpective Miniſter and Churchwardens, and ſhall then make proof of the Truth thereof, by two credible Witneſſes at the leaſt upon Oath, 25 *Car.* 2. *c.* 2.

CHAP.

CHAP. III.

Some few Casts concerning Actions for, and against Churchwardens.

NOte, As I have said before, the L doth make Churchwardens a kind Corporation, and enables them by that Name take moveable Goods and Chattels, and to and be sued at Law concerning such Goods the use and benefit of their Parish; yet th cannot take an Estate of Lands to them Name of Churchwardens; for if a Feoffm be made to the use of the Churchwardens o this use is void, for they have no capacity take such Purchase, *Finch lib.* 2. *c.* 17. *p.* 1 *Rolls Casts*, 1 *part*, *fol.* 393.

Neither can Churchwardens prescribe to ha Lands to them and their Successors, for th are no Corporation to have Lands, but f Goods of the Church only.

If a Man buy a Bell, and hang it up in t Steeple, or do make a Pew, and set it up the Church, and do neither make any Word Writing there of, yet by this is the Bell Pew dedicated or given to the Church, 11 4.12. 8 *H* 7.12.

The Churchwardens have no Action at th Common Law to recover a Legacy, nor an thing which they never had; but if any Goo or Ornaments of the Church, be once in thei Possession and Custody, they may maintain Appeal of Robbery against him that steale them, and an Action of Trespass against hi that shall wrongfully take them away, altho

t be the Vicar or Parſon himſelf: and the Damages that ſhall be recovered thereby, ſhall e to the uſe of the Pariſh, and not to their wn uſe, 37 *H.* 6. 30. & 34. 11 *H.* 4. 12.

But if thoſe Churchwardens (from whom e Goods were ſo taken) ſhall happen to die efore any Action by them brought for the Goods, the ſucceeding Churchwardens ſhall ave an Action for the ſame Goods, *Fitz. N.B.* 1. K.

If a Bell be broken, the Churchwardens ay have an Action againſt him that brake , and ſhall recover Damages, which ſhall be o the uſe of the Pariſh, and not to their own ſe.

The Churchwardens have no ſuch proper- y in the Goods of the Church, as thereby to ave power to give, ſell, releaſe, hurt, or im- air them, without the aſſent of the Sidemen r Veſtry.

If the Churchwardens ſhall give or impair he Goods of the Church in their Cuſtody, the Pariſhioners may chuſe new ones, who may ave an account againſt their Predeceſſors, *Finch lib.* 2. *c.* 17. *p.* 179.

If the Organs be taken out of the Church, he Churchwardens may bring an Action of reſpaſs for the ſame; for the Organs be- ong to the Pariſhioners, and not to the Par- on; and therefore the Parſon cannot ſue he Party in the Eccleſiaſtical Court that took hem, *Trin.* 21 *Jac. B.R. Rolls Caſes*, 1 *part. fol.* 93.

If the Walls, Windows or Doors of the Church be broken down, or the Trees in the Church-yard be cut down, or the Grafts there-

of

of be eaten up; In this case the Parson or V
car, and not the Churchwardens, shall ha
an Action for it. A Parson may bring his
ction for breaking and entring into his Ho
and Close, when it is the Church and Chur
yard, 10 *H.4. fol.9. 8 H.6. fol.9.*

The Churchwardens by the assent and agre
ment of the Parishioners, may take a ruin
Bell, and deliver it to a Bell-Founder, a
agree with him that he shall have four Pou
for casting it, and that he shall retain the s
till the four pounds be paid: And such agre
ment of the Parishioners shall excuse the Chur
wardens in a Writ of Account brought aga
them by their Successors Churchwardens, *M.*
38 *El. B. R.* Methold *and* Winnes *Case*, Re
Cases, 1 part, fol.393.

If the Churchwardens present in the Ecc
siastical Court, That one *A.B.* (one of their P
rishioners) is a Raller, and Sower of Disco
amongst his Neighbours; in such case the
lies a Prohibition; for this belongs to the Le
and not to the Spiritual Court, unless su
Railing were in the Church or Church-ya
Mich. 16 Jac. C.B. Rot. 716. Smith and *Pa*
Case.

If the Churchwardens sue in the Ecclesias
cal Court for a Church Way, which they cla
to belong to all the Parishioners by Prescr
tion, a Prohibition lies, for this is a Tempo
Cause.

If the Churchwardens of *H.* sue *R. A.* in t
Ecclesiastical Court, for that he and all tho
whose Estate he hath in such an House, u
at the Perambulation or Procession of the P
rishioners of the Parish, did use to provide
Refreshin

Refreshing for them, with Bread, Cakes, Cheese, and Ale, &c. and suffer them to rest there; in this case a Prohibition will be granted, for that they claim it in the nature of a Corody.

CHAP. IV.

The Churchwardens Office about disposing of Seats in their Church.

THE Churchwardens are to look to the Repair of the Seats in the Church, but the disposing of the Seats in the Body of the Church belongs of common Right to the Ordinary of the Diocess, so that he may place and displace whom he pleases, except in some cases.

As if a Man and his Ancestors, and all those whose Estate he hath in a certain Messuage, have used time out of mind to repair an Isle of the Church, and to sit there, and none else; in such place the Ordinary cannot displace him, because he hath it by Prescription for a reasonable consideration.

If a Man prescribe, that he and his Ancestors, and all those whose Estate they had in a certain Messuage, did use to sit in a certain Seat in the Body of the Church, time out of mind, in consideration that he and they have used time out of mind to repair the said Seat, if the Ordinary remove him from such Seat, a Prohibition may be brought, for the Ordinary hath no power to dispose of it; for it is a good

good Preſcription, and by intendment a
Conſideration for the ſame.

But if a Man preſcribe to have a Seat in
Body of the Church generally, without co
deration to repair the ſame, in ſuch caſe
Ordinary may diſplace him.

But the Ordinary hath nothing to do with
Seats in the Chapels belonging to the Houſes
Noblemen, *Trin.* 12 *Jac. C.B. Rolls Caſes*, 2
fol. 288.

But if a Lay-man by the diſſolution of
naſteries hath a Monaſtery in which there
Church, parcel of it, and he ſuffers the Pariſh
oners for a long time to come to it, and do
vine Service, and to uſe it as their Pariſh-Church
this (unleſs for all the whole time the Party
uſed to place Men in their Seats himſelf) ſ
give Juriſdiction to the Ordinary to order
Seats; for that now in Fact is the Pariſh-Church
although that before it were not ſubject to
Ordinary, *Tr.* 12 *Jac. C. B.* Buzzards *Caſe*, *Rol*
2 *part*, *f.* 228, 289.

If there be a Cuſtom in a Pariſh that twelve
the Pariſhioners may chuſe Churchwardens
which Churchwardens have power by the Cu
ſtom to repair the Seats, and make new ones
the Body of the Church, and to appoint wh
Perſons ſhall ſit in them; and the Churchwarden
ſo elected, do erect a new Seat in the Body
the Church, and appoint a certain Man to
there, and afterwards the Ordinary decrees, th
another ſhall have the Seat, here a Prohibition
lies; for the Cuſtom hath fixed the power of di
poſing the Seats in the Churchwardens, *P.* 16 *Jac.*
B. R. Barbin and *Tredennicks* Caſe for a Seat in
Breock Church in the County of *Cornwal*: but the
reaſon

ason of granting the Prohibition in this Case, as partly because that the Sentence of the Ordinary was, That *Tredennick* should have the Seat for him and his Heirs, and that none should disturb him on pain of Excommunication, which unreasonable, and by such Sentence he and his Heirs should have it, though they were no Inhabitants within the same Parish, *Rolls Cases*, 2 part, *fol.* 289.

CHAP. V.

The Churchwardens Office about Reparations and Rates.

THE Churchwardens are to see that the Church and Church-yard be well repaired and kept clean; and they are to provide Books of Common Prayer, Books of Homilies, a Parchment Book for Registring of Christenings, Weddings and Burials in; Fonts, Pulpits, Tables, Chests for Alms, Communion Cups, Ornaments, and other Furniture, and a Chest with three Locks and Keys for putting the same in. And they are to provide Bread and Wine for the Sacrament according to the number of the Communicants, 37 *H.* 6. 25. 11 *H.* 7. 27. *Canon* 20, 70, 80, 81, 82, 83, 84, 85.

And they may Rate the Parish for Mony to defray their Charges.

Their Rates are to be done by the Churchwardens, with the assent of the greater part of the Parishioners, and upon a general warning given before they meet for that purpose. And

the

the Eccleſiaſtical Court hath Cognizance of
Reparation of the Body of the Church.

If a Man dwell in one Pariſh, and have L
in another Pariſh, which he occupies there,
may be charged for ſuch Lands, for the Rep
tion of the Church of the Pariſh where
Lands lie, *Co. 5. Rep. fol. 67.*

If an Inhabitant of one Pariſh leaſe out
Lands which he hath in another Pariſh, re
ving Rent, then he ſhall not be charged in
Pariſh where the Lands lie, becauſe there
Pariſhioner and Inhabitant who may be char
Ibid.

If a Man live in one Pariſh, and occupy L
in another Pariſh, he ſhall not be charged
that Pariſh where the Lands lie, for the
naments of the Church according to his L
for the Inhabitants only ought to be rated
them.

Neither can a Man be charged in the P
where he doth inhabit, for the Lands whi
occupieth in another Pariſh, towards the
paration of the Church in the Pariſh where
liveth; becauſe then he might be twice char
for he may be charged in the Pariſh where
Land lies.

If a petty Chapman take a Stall in the W
of a Mannor for Rent, within the Market,
two or three hours every Market-day to
his Commodities, the Market being held
one day every Week, but he inhabits in ano
Pariſh, here he cannot be rated to the Rep
tion of the Church for ſuch Stall or Stand
M. 20 *Jac. B.R.* between *Holms* and the Chur
wardens of *Kittering* in *Northamptonſhire*, re
ved, and a Prohibition granted accordingly, *
Caſes, 2 *part*, *f.* 289.

If a Citizen of *London* build an House in the Parish of *A.* and inhabit there in the time of Sickness in *London*, and hath not any Land in the Parish, and afterwards he is assessed 20 s for the Reparation of the Church, where others that have 100 Acres of Land in the same Parish pay but 6 *d.* yet notwithstanding no Prohibition lies in this case in the Court Christian, because they have the Jurisdiction of the thing; and therefore he must be ordered according to their Law, *M.* 5 *Jac. C.B. Sir* Robert Leys *Case*, Rolls Rep. 2 *part*, *fol.* 289.

If there be a Chapel of Ease within a Parish, and one part of the Parish have used time out of mind to repair the Chapel themselves without the rest of the Parishioners, and there to hear Service, and Marry, and all other things, but only that they Bury at the Mother Church, notwithstanding they must contribute to the Reparation of the Mother Church, *Mich.* 13 *Jac. C.B.*

If some Parishioners be rated, and others are not, and those who are rated, are sued in the Ecclesiastical Court, they must plead this Matter in this Court, for they cannot have a Prohibition.

Where there are five Bells in a Church, and the major part of the Parishioners agree that there should be made a sixth Bell, which is made accordingly, and they make a Rate for the payment of it, this shall bind the remainder of the Parishioners, though they did not agree to it; otherwise any obstinate Persons might hinder any thing intended, and what is fit for the Ornament of the Church, *Hickfield* and *Mattingly*, &c.

Every Man ought to be rated according
his Perſonal Eſtate, and not according to
Lands for the Goods and Ornaments of
Church; and by a Land Rate for Church Re
rations, though the Occupier of the Lands
in another Pariſh.

Theſe things are accounted Church Repa
tions, and are to be performed by a Land Ra
viz.

The Walls of the Church and Steeple,
Church-yard Walls or Rails, the Windows
Bars of Iron, the Glaſs, the Roof of Timb
with Laths, Nails, Prigs, Dogs, and Bolts
Iron, the Covering of Lead, Tile, Slates
Shingles, the Floor with Stone or Paving-Ti
the Doors with Locks, Keys, Ridges, Hoo
and Nails; the Furniture of the Steeple,
Stairs, Floors, Bells, Wheels and Ropes;
Pulpit, and the Pews and Seats not made
private Men.

Theſe following are to be rated on the
habitants of the Pariſh, and not upon Out-dw
lers, *viz.*

The Communion Table, and Coverings the
of, the Communion Cups, the Bread and Wi
for the Communicants, the Bible, and oth
Books appointed to be in Churches, the Wa
ing of the Communion Clothes, Candles
Lecture Days, the Surplice, Pulpit-Cloth a
Cuſhion, the Clerk and Sextons Wages, a
Expences of the Churchwardens and Sidesm
about the Pariſh Buſineſs.

By the Statute of 22 & 23 *Car.* 2. *cap.* 17.
tituled, [*An Act for the better Paving and Cle
ſing the Streets and Sewers in and about the C
of* London;] it is Enacted, (amongſt oth
thing

hings) That where any Church or Church-
ard shall be fronting or adjoyning to any of
e Streets, Lanes, or Passages before menti-
ed in the said Act, the Persons thereby au-
horized and appointed, shall rate and assess a
easonable proportion thereof upon the Parish
hereunto belonging, the same to be paid by
he Churchwardens of every such Parish for the
ime being, who are by the said Act required
o pay the same accordingly in the behalf of
he same Parish.

CHAP. VI.

ome Cases wherein the Churchwardens are equally concerned with the Constables and Overseers of the Poor.

THE Churchwardens are to joyn with the Constables in making of Rates for he Relief of the poor maimed Soldiers and Mariners, and for conveying Prisoners to the Goal, and to execute Warrants for the same.

The Churchwardens are to joyn with the Constables in chusing of Surveyors for the High Ways, and in the setting down of Days for he Work, and in the oversight of the High Constables Account for the Mony they do receive upon any Forfeitures about the High Ways. And they may with the aid of two Justices (one of the *Quorum*) force High Constables to account for, and pay in what Mony they have received forfeited for default of High Ways; and to execute the Justices Warrants for the Penalties and Forfeitures about

cleanſing the Streets, and repairing the High Ways, 14 *Car.* 2. *c.* 2.

The Churchwardens and Overſeers of the Poor are to execute the Juſtices Warrant for levying the Penalties of five pounds upon the Parties Goods that is not buried in Woollen, which Penalty is to be imployed to the uſe of the Poor, 18 *Car.* 2. *c.* 4.

The Churchwardens in *London*, *Weſtminſter* and Borough of *Southwark*, &c. upon every Monday or Tueſday in Eaſter Week, together with the Conſtable, Overſeers of the Poor, and Surveyors of High Ways in every Pariſh reſpectively, or the greater number of them; giving notice, or calling together ſuch other Inhabitants of their Pariſhes as have formerly born the like Offices, they, or the greater number of them are to make choice of, and ſhall nominate and appoint two or more able Perſons, that are Tradeſmen of their Pariſh, to be Scavengers for the Streets, Lanes, and other open Paſſages of each Ward or Diviſion within the ſaid Pariſh for the Year next following, and until others be choſen and ſettled in their places, 2 *W.* & *M.*

CHAP.

CHAP. VII.

The Churchwardens Office about passing Accounts, together with the Heads of most of the things which they are to present in the Visitation Court.

THE Churchwardens at the end of their Year, or within one Month after at the most, are before the Minister and Parishioners to give up a just Account of their Receipts and Disbursements; and at their going out of their Office, they are to deliver up to the Parishioners what Mony, or other things of right belonging unto the Church which they have remaining in their Hands, that it may be delivered over by them unto the next Churchwardens, by Bill indented, *Canon* 89.

If the Churchwardens refuse to do this, they may be presented at the next Visitation Court for it, or the succeeding Churchwardens may bring their Action of Account against them at the Common Law, and compel them to it; and in this Account they shall be allowed their needful Disbursements and Expences about the Parish Business.

The Churchwardens, Questmen, or Sidesmen shall not be bound to exhibit their Presentments above once a Year where it hath been no oftner used, nor above twice a Year in any Diocess whatsoever, except it be at the Bishops Visitation; for the which Presentments of every Parish Church or Chapel, the Register of the Court where they are to be exhibited, shall not receive above 4 *d.* in one

Year, under pain of Suſpenſion from the e
cution of his Office the ſpace of one Mo
for every Offence *toties quoties*. But the Chu
wardens may voluntarily preſent oftner if t
pleaſe, *Canon* 116.

No Churchwardens, Queſtmen, or Sideſm
ſhall be called or cited but only at the time
times before limited, to appear before
Eccleſiaſtical Judge whatſoever, for refuſing
other times to preſent any Faults commi
in their Pariſhes, and puniſhable by Eccleſi
cal Laws. Neither ſhall they or any of t
(after their Preſentments exhibited at any
thoſe times) be any further troubled for
ſame, except it evidently appear that they
willingly and wittingly omit to preſent fo
publick Crime or Crimes, as they knew
have been committed, or could not be
rant that there was then a publick Fame
them; or unleſs there be very juſt cauſe
call them to explain their former Preſentme
And in caſe of wilful omiſſion, their Ordina
ſhall proceed againſt them in ſuch for, a
Caſes of wilful Perjury in a Court Eccleſ
ſtical it is already by Law provided, Ca
117.

One of the two times of Preſentments i
ways to be about a Week or Fortnight af
Eaſter, at which time alſo the old Churchwa
dens are to leave their Office, and new o
are to come in; but the new ones are not
be ſworn till the old ones have given in th
Preſentments; and every Parſon or Vicar,
their Curats in their abſence, are to joyn
the Preſentment with the Churchwardens,
and if the Churchwardens refuſe to preſe
th

when every such Parson and Vicar, or in their absence their Curats may themselves present to their Ordinaries at all such times, and when else they shall think fit, *Canon* 113, 118.

The Sum of the Articles usually given to the Churchwardens to make their Presentments upon, are these, *viz.*

I. *WHether their Church and Chancel, Bells and Ropes be in good repair, and the Ten Commandments, Lords Prayer and Creed, drawn out in fair Letters, the Kings Arms set up, Assessments made for the Repair of the Church, and who refuses to pay?*

If they have a Font, Communion Table, Carpet, Table-Cloth, Flagons, with Cups and Cover for Bread and Wine, a Reading Desk, a Pulpit, with a Cushion and Covering for it, a fit Common Prayer Book of the largest Volume, the Bible in Folio, of the last Translation, with a Book of Homilies, and Book of Canons, and a Surplice?

If the Tombs, Monuments and Gravi-stones be safely kept from removing and breaking?

A Book of Parchment for Registring Christnings, Weddings and Burials, &c. a Chest with three Locks to put the same and the Church Ornaments in, with a Box for Alms, and a Table of Degrees prohibiting Marriage hung up in the Church?

If the Parsonage House, and Out-Houses, be in good Repair, and the Church-yard well fenced to keep out Swine, &c.

II. *Whether the Parson, Vicar or Curate, read the Common Prayer at Morning and Evening Service, wear his Surplice, bid Days, preach every*

Sunday, or read an Homily, Catechiſe; obſerve
fifth of November, thirtieth of January, tw
ninth of May, and ſecond of September; c
obſerve Perambulations, or going the Bounds
Rogation Week, preach ſound Doctrine, and w
no Sedition againſt the King or Government; c
brate the Lords Supper three times every Year
leaſt, whereof at Eaſter for one; baptize Infa
with Godfathers and Godmothers, viſit the Sic
and Pray with them, bury the Dead according
the Book of Common Prayer, Marry none clan
ſtinely, preach in his Gown, be a Man of a ſo
and chaſt Life, a Peace-maker amongſt his Nei
bours, and one that takes care to reduce Secta
Recuſants, Separatiſts, and refractory Perſons
the Obedience and Doctrine of the Church; a
reads the Book of Canons to the People at
once every Year, and the XXXIX Articles tw
every Year.

III. Whether all their Pariſhioners of due A
reſort to the Church to Divine Service, b.ha
themſelves reverently there, kneel, ſtand up, a
make Anſwer to the Rubrick of the Common Pra
Book? Whether any work, or ſell Wares on Sunda
or Holydays? Or whether Vintners, Victualler
Innkeepers, or others do receive any to drink i
their Houſes in the time of Divine Service?

Whether any Marry within the Degrees forbid
den, or be Adulterers, Swearers, Blaſphemers,
Drunkards?

If any above 16 Years of Age do not receive th
Lord Supper three times a Year, whereof Eaſter t
be one?

If any keep their Children unchriſtned, women
that come not to be churched, or any bring no
their

their Dead to be buried after the Service of the Church? Or if any be married without Banes or Licenſe at unlawful hours?

And whether their Almſhouſes, Hoſpital, School or Spittle, if they have any, be well and godly uſed, or any thing detained from it? What Legacies given to pious uſes; and if the Pariſhioners be placed into Pews or Seats without offence or contention.

IV. *Whether their Pariſh Clerk and Sexton (if they have any) be duly choſen, can Write and Read, be of an honeſt Life, and make the Reſponſes to the Hymns and other Suffrages?*

And if the Schoolmaſter, Phyſician, Chirurgion, and Midwife (if they have any) teach or practiſe without Licenſe? If the Churchwardens be duly choſen according to the Canon or Cuſtom? And if the old Churchwardens have been diligent to keep the Church in good Repair, to preſerve all the Furniture thereof, and walk out of the Church uſually about the midſt of Divine Service, to ſee who are abroad in Alehouſes, or elſewhere abſent or evilly imployed.

Theſe are the Heads of moſt of the Articles that are inquired of at the Viſitation Courts; but it is probable there may be ſome ſmall alteration, according to the uſe of the ſeveral Dioceſſes in ſeveral places.

THE OFFICE OF THE Overseers of the Poor.

CHAP. I.

Of the Antiquity of these Officers, of their Qualifications, and how, and when to be chosen.

THose to be chosen to this Office, ought to be substantial Persons, Men of Wisdom and a good Conscience; they must be Householders, for this Name and Office may beseem the Best, and not the meanest Men, (it being an Office of great Antiquity and Excellency;) For as God himself hath a special Respect to the Miseries of the Poor, so they be like God that provide for the Necessities of the Poor, *Dalt. J.P.* 143.

The Overseers of the Poor are to be chosen yearly, and joyned with the Churchwardens of the Parish in the oversight and ordering of the Poor of the Parish. They are to be chosen by two or more Justices of the Peace, (one whereof to be of the *Quorum*) who are yearly

yearly under their Hands and Seals at Easter, or within one Month after, to appoint four, three, or two substantial Housholders, according to the greatness of the Parish, to be joyned with the Churchwardens to look to the Poor of the Parish, Stat. 43 *Eliz.* c. 2. 21 *Ja.* c. 28.

The major part of these Officers, without the rest of them, may do any thing belonging to their Office. But they are to have the allowance and consent either in particular, or in general, of two Justices of the Peace (*Quor. unus*) to every thing they do about their Office. And these Officers, or such of them as shall not be let by just excuse (to be allowed by two Justices) are to meet monthly in the Church, on Sunday after Evening Prayer, and there are to consider of some meet directions about their Office, and they are to use all possible diligence in their Office on pain to forfeit for every such Default twenty shillings, 43 *El.* c. 2. *Wingates Stat. Tit. Poor People.*

And if it happen that Overseers be not appointed according to the 43 *El.* then every Justice of Peace, or Head Officer of that Division or Corporation shall forfeit 5 *l.* to be levied by a Sessions Warrant, and imployed to the use of the Poor of the Parishes where such default is made, 43 *El.* c. 2. *Wingates Stat. Tit. Poor People.*

CHAP. II.

Of the several sorts of Poor People, and what Poor the Overseers are to provide for, and relieve, or to set to work.

THere are three sorts or degrees of Poor, as first, the Poor by Impotency and Defect, as the Aged and Decrepit that are past their Labour; the Infant, Fatherless and Motherless, and not able to work; the Person naturally disabled either in Wit or Member, as an Ideot, Lunatick, Blind, Lame, *&c.* not being able to work, and the Person visited with grievous Sickness or Disease, though casually, yet thereby for the time being impotent. All these the Overseers are to provide for, that they have necessary Relief, and Allowances proportionable, and according to the continuance and measure of their Maladies and Needs, and of these it may be said, *Si non pavisti, occidisti, Dalt. J.P.c.73. f.169.*

Then secondly, The Poor by Casualty, as a Person casually disabled or maimed in his Body, as the Soldier or Labourer, *&c.* maimed in their lawful Callings, the Householder decayed by casualty of Fire, Water, Robbery, Suretiship, *&c.* and the poor Man over-charged with Children; All these (and such like others) having Ability, and strength of Body, but not sufficient Means to maintain themselves, are to be set to work by the Overseers, and being not able to live by their Work, they are in Charity to be relieved in some reasonable proportion, according

to

to their ſeveral Wants and Neceſſities, *Dalt. J.P. c.73. f.* ibid.

Then laſtly, The thriftleſs Poor, as the ri… tous and prodigal Perſon, that conſumes all … Play or Drinking, *&c.* the diſſolute Perſon, as … Strumpet, Pilferer, *&c.* the ſlothful Perſon … refuſeth to work, *&c.* and the Vagabond … will abide in no place or ſervice; and for all th… the Houſe of Correction is the place where … are to be ſent to, and being of able Bodies, th… they are to be held to hard Labour, and to m… tain themſelves by their Labour and Work, wi… out charging the Town or County for any … lowance, 7 *Jac. c.*4 *Dalt. J.P. c.*73. *fol.* 170.

But it ſeemeth, that if any of theſe laſt ſor… Poor happen to prove impotent, and alſo … caſes of manifeſt extremity, then they are to … relieved by the Town, *Dalt. J.P. c.*73. *f.* ibid.

If the Parents be able to work, and may … Work, they are to find their Children by th… labour, and not the Pariſh; but if they be ov… charged with Children, they may help, by hav… ſome of their Children put out Apprentices … the Overſeers, *Dalt. J.P. c.*73. *f.* 157.

The Father, Grandfather, Mother, Gran… mother, and the Children and Grandchildr… of every poor impotent Perſon not able … work, being of ſufficient Ability, ſhall relieve ſu… poor Perſons in ſuch manner, as the Juſtices … Peace of that County (where ſuch ſufficient Pe… ſon dwelleth) at their General Quarter Seſſio… ſhall Aſſeſs; and if ſuch Perſon refuſe to ob… the Order, they forfeit 20 *s.* for every mon… to the Poor of the Pariſh, which Forfeiture is … ne levied by the Churchwardens or Overſeers … or one of them, by Warrant from any two Ju…

ſtic…

tices of the Peace (*Quor. nunc*) within their Limits, by distress and sale of the Offenders Goods; and want of distress, any two such Justices may commit the Offender to prison, there to remain without Bail till the said Forfeiture be paid, 43 *El.*2. *Resol. Judges* 16,17. *Dalt. J.P. c.*73. *f.*156.

But if a Man marry a Grandmother that hath no Estate, the Grandfather in Law is not chargeable: But if she hath an Estate caused without such Marriage, or that comes after Marriage by descent, or otherwise to her, here he may be charged: But where they have raised themselves an Estate by their own Industry, there it is doubtful. But in no case shall he be charged longer than his Wife lives; and it seems also Bastard Childres are not within this Law, neither can the Justices do any thing therein against a Man that lives out of their County. See *Boulst. Sp.* 2 *part*, *f.*245,246,247.

No Poor may beg but in their own Parish, and there by Licence of the Overseers of the Poor; and they may not licence them to beg in the High ways there, and without the Licence of the Overseers they may not beg at all, *Res. Judges* 15. *Dalt. J.P. c.*73. *f.*157. 39 *El.*3.

No Inhabitants may serve any Poor at their Door, but those of their own Parish, that have licence from the Overseers of the Poor to beg there, under pain of 10*s* for every time they do so, 1 *Jac.*7. *Dalt. J.P. c.*83. *f.*220.

These Officers are to make provision for a poor Man that wants an House (but not for a common Herdsman or Sheperd) with consent of the Lord of the Mannor first had in writing under his Hand and Seal, either by themselves, or with

a Sessions

a Sessions Order, may erect a Cottage upon a part of the Waste of a Mannor, and lodge Inmates therein, notwithstanding the Stat. 31 *El.* But such Cottage may not be afterwards employed otherwise than to lodge Impotent Persons there, for if it be, then it falls within the penalty of the 31 *El.* aforesaid, 43 *El. c.* 2 *Wingates Stat. Tit. Poor People.*

All such Persons married or unmarried, having no Means to maintain them, using no ordinary and daily Trade of Life to get their Living by, and such Persons also as can get no Work, are to be set on Work by the Overseers; and any one Justice of Peace may send to the House of Correction, or Common Goal, such as shall not imploy themselves to work being appointed thereto by the Churchwardens and Overseers of the Poor of the Parish, 43 *El. c.* 2. *Dalt. J. P. c.* 73. *f.* 143.

And to this purpose the Churchwardens and Overseers of the Poor may, by, and with the consent of two or more Justices of the Peace (*Quorums*) &c. Set up use, and occupy any Trade, Mystery or Occupation, only for the setting on Work, and better Relief of the Poor of the Parish, Town or Place where they are Overseers, &c. 3 *Car.* 1 *c.* 4. *Dalt. J. P. c.* 73. *f.* 148. *Wingates Stat. Tit. Poor People.*

CHAP

CHAP. III.

The Duty of the Overseers about putting forth, and binding of Apprentices, with the Form of the Indenture for that purpose.

IN the putting out of Children Apprentices, there ought to be regard had to the Master, the Child, and the Parents; First, to the Master, that he be of Ability and Honesty, otherwise by some device or hard intreaty they may provoke their Apprentices to depart or run away; and regard is also to be had to his Trade or Faculty, lest the Apprentice consume his time without learning any thing: Secondly, Regard is to be had to the Apprentices to put them out timely, and while they are young and tractable (so that they be above the Age of seven years) otherwise by reason of their idle and base Educations, they will hardly keep their Service, or imploy themselves to work: Then lastly, Regard is to be had to the Parents, to take away such from them as are brought up to live idly and loosly, or else such as are a burthen and charge to their Parents, *Dalt. J. P. c.* 73. *f.* 150, 151.

The choice of these Apprentices, are to be out of the poorest sort of Children, whose Parents are the least able to relieve them, and they are to be above 7, and under 14 years of Age, when they are first bound, 7 *Jac. c.* 3. *Wingates Stat. Tit. Poor People.*

And these Officers are to have the consent of two Justices of the Peace in the placing out of such Apprentices; and they may bind the Man-child

child till 24 years of Age, and the Woman c
till 21 years of Age, or till she be married, wh
shall first happen: And these Apprentices m
be bound to Weavers, Masons, Dyers, Fullers,
any other Trade, as well as to Husbandry
Housewifery, See 43 *El. c.* 2. *Dalt. J.P. c.* 73. *f.* 1
Wingates Stat. Tit. Poor People.

Now this placing of Apprentices may be
any Man, whom the Officers and Justices think
to receive them, within the same Parish, or e
where in other Parishes within the same Hu
dred, either with, or without Mony; the re
it is fit in this case to consider, if the Child
yonng, and the Party to whom they place h
not very able, then they may give Mony, if th
please, as the Party and they shall agree, *R*
Judges 1633. *Quest.* 1.

All Men that have, or may have use for Se
vants, as Knights, Clergy-men, Gentlemen, m
Yeomen, as well as Tradesmen, are bound to ta
Apprentices; yea, though wealthy Men Tr
themselves, or live so privately, that they have
use for a Servant, yet they may be compelled
take them, or else to pay a Sum of Mony for p
ting them Apprentices elsewhere; and if the
refuse to pay the Sum imposed upon them, t
Justices of the Peace may make their Warra
to levy the same by distress and sale of the O
fenders Goods, *Ref. Judges* 1633. *Quest.* 4. *Pa*
24. *Dalt. J.P. c.* 73. *f.* 151.

Or the Refusers to take Apprentices, may b
presented and indicted for the same, upon th
Stat. 43 *El. c.* 2. at the Assizes or Sessions of th
Peace, *Dalt. J.P. c.* 73. *f.* ibid. *Ref. Judges* 163
Quest. 7.

An

An Apprentice put to a Man in respect of his Farm, when his Lease expireth, the Apprentice shall go still with the Farm, if the first Master be so pleased; otherwise it is where an Apprentice is put to a Man in regard of his Ability, or for other Respects. And where any differences are between the Officers and the Man that is to receive an Apprentice, about Mony, and what Mony shall be given or otherwise, there the Justices thereabouts, or in their Defaults, the Sessions must end it, *Rel. Judges* 1633. *Just.* 2. *Dalt. J.P. c.* 73. *f.* 151.

If the Parents of poor Children shall refuse to let their Children be put forth Apprentices (without good cause shewed) such Parents may be bound over, by the Justices, to answer their said Default, and if the Children shall refuse, the Justices may send them to the House of Correction, there to remain till they be content to be bound and serve, *Dalt. J. P. c.* 73. & 58. *f.* 153. & 119.

Note, That this binding must be by Indenture, and may not well be done by a verbal Agreement; and the Indenture must be either between the Justices, Churchwardens and Overseers, or them and the Apprentice on the one part, and him that takes the Apprentice of the other part, as appears by the Form of the Indenture in the end of this Chapter; and he must be named by the Name of Apprentice expresly, or else he is no Apprentice, though he be bound, *Cromp.* 184. *Dalt. J.P. c.* 5. *f.* 120.

And this binding is as effectual to all purposes, as if the Children were of full Age, and did bind themselves by Indentures and Covenants; and all such as are bound by the Overseers, as above-

aboveſaid, may ſafely be received and kept ... Apprentices by their Maſters, 1 *Jac. c.* 25. *Jac. c.*28. *Dalt. J. P. c.*58. *fol.* 120. 3 *Car.* 1. ... 5 *El. c.*4. *Cromp.*184. *b.*

Such Mony as is given to put out poor C... dren Apprentices, is to be employed in Cor... rate Towns, by the Corporations, and in ot... plac:s by the Parſon or Vicar, together with ... Conſtables Churchwardens, and Overſeers of ... Poor, or the moſt part of them; who ſhall ... forbear to refuſe to employ the ſame accor... ingly, on pain to forfeit five marks, each ... them ſo making default, to be divided betwi... the Poor of the Pariſh and the Proſecuto... 7 *Jac. c.*3. *Wingates Stat. Tit. Poor People.*

The Party taking any Mony with ſu h Ap... prentice, ſhall give good Security by Obligatio... to repay it at the end of ſeven years next e... ſuing the date of the ſaid Obligation, or with... the three months after the end of the ſaid ſeve... years; and if ſuch Apprentice ſhall die with... ſeven years, then within one year after his or h... death; and if the Maſter, Miſtreſs or Dame hap... pen to die within the ſeven years, then with... one year after their death; ſo as the Mon... may be employed in placing the Apprentic... with ſome other of the ſame Trade, to ſerv... out his time, at the diſcretion of the Partie... truſted as aforeſaid, 7 *Jac. c.*3.

And the Mony ſo given ſhall be imployed ... within three months after the Receipt thereof, ... and if there ſhall not be apt Perſons found in ... the places where it is given to the Apprentices, ... it ſhall then be imployed in the Pariſhes next ... adjoyning, by the Parties that are truſted with ... it, in the place where it was ſo given, and ... there

ere also Bond shall be taken, as afore is declared, 7 *Jac. c.* 3.

If the Master shall put his Apprentice into pparel, it is a Gift in Law, and he cannot terwards take it away, though he should part ith his Apprentice, *Br. Transgr.* 93.

An Apprentice cannot be discharged from his pprenticeship but by four Justices of the Peace the least, and in open Sessions, or else by e Agreement of the Master and Apprentice, d under his Masters Hand in Writing, *Dalt. P. c.* 58 *f.* 121.

The Form of these Indentures, mentioned before, is as followeth, *viz.*

THIS Indenture made the 29th *day of* September, *in the* 20th *Year of the Reign of our most Gracious Sovereign Lord* Charles *the Second, by the Grace of God of* England, Scotland, France *and* Ireland, *King, Defender of the Faith, &c.* Annoq; Dom. 1668. *witnesseth, that* J. W. *and* G. R. *Overseers of the Poor in the Town of* Kirk-Leaventon, *and* J. R. *Churchwardens of the same Town, by and with the consent of Sir* J. P. *Knight and Baronet, and* T. M. *Esq; two of his Majesties Justices of Peace for the North-Riding of the County of* York, *have by these Presents placed and bound* J. T. (*being a poor fatherless child*) *as an Apprentice with* E. H. *of* Kirk-Leaventon *aforesaid, Widow; and as an Apprentice with her the said* E. H. *to dwell from the day of the date of these Presents, until she the said* J. T. *shall come to the Age of* 21 *years, or be married, which shall first happen, according to the Statute in that case made and provided, by and during all which*

time

time and term the said J. T. *shall the said* E. *her Dame well and faithfully serve in all* [illegible] *lawful Business as the said* E. H. *shall put* [illegible] *the said* J. T. *unto, according to her Power,* [illegible] *and Ability, and honestly and obediently in* [illegible] *things shall behave her self toward her said* D[illegible] *and Children, and all the rest of the Family* [illegible] *the said* E. H. *And the said* E. H. *for her* [illegible] *promiseth, covenanteth, and agreeth that she* [illegible] *said* E. H. *the aforesaid* J. T. *in the Art and* [illegible] *of Housewifry, the best manner that she can,* [illegible] *way, shall teach and inform, or cause to be taught and informed, as much as thereunto belongeth,* [illegible] *she the said* E. H. *knoweth; and also during* [illegible] *the said Term, to find unto her said Apprentice Meat, Drink, Linnen, Woollen, Hose, Shooes,* [illegible] *ing, and all other things needful or meet for* [illegible] *Apprentice. In Witness whereof,* &c.

Note, If it be a Boy that is to be bound Apprentice to Husbandry, or any other Trade, [illegible] he may be bound till 24 years of Age, as [illegible] shew'd before in this Chapter.

CHAP. IV.

Several Cases about Settlements, and also touching Bastards, &c.

TOuching settling of poor People, the Justices are to meddle with none but those who are impotent, and such as are like to be chargeable to the place where they are. *Bulst. Rep.* 1 *part*, 347.

By

By 13 & 14 *Car.* 2. *cap.* 12. It is Enacted, That upon complaint by the Churchwardens, and Overseers of the Poor, to any Justice of Peace within forty days after any poor Person cometh to settle in a Tenement under 10 *l.* per *annum*, two Justices of Peace, whereof one to be of the *Quorum*, may by Warrant remove such Person to the Parish where they were last legally settled for forty days, unless they give Security to be allowed by the said Justices for Discharge of the Parish: Persons aggrieved may Appeal to the Quarter Sessions.

But Persons having a Certificate from the Minister of the Parish, and one Churchwarden, and one Overseer of the Poor, declaring them Inhabitants there, may go into any Parish to Work, and the not returning of such Persons, when their Work is finished, or falling Sick whilst they are at Work, shall not be accounted a Settlement: If any return to the Parish from whence they are removed, a Justice of Peace may send them to the House of Correction, to be punished as Vagabonds, or to a publick Work house to be imployed in Labour: and if the Churchwardens and Overseers of any Parish to which any are removed, refuse to receive them, and provide them Work, &c. a Justice of Peace may bind over such Officers to the Assizes or Sessions.

The Churchwardens and Overseers for the Poor where any Bastard-Child shall be born, may take so much of the Goods and Profits of the Lands of the Putative Father and Lewd Mother, as two Justices of Peace shall order towards the Discharge of the Parish, to be confirmed at the Sessions: who may make an Order for the

Church-

Churchwardens, &c. to diſpoſe of the Go
by ſale or otherwiſe as they ſhall think
and receive the Profits of ſo much of th
Lands, as ſhall be ordered by the Seſſions.

The Poor in every Town-ſhip or Village
Lancaſhire, *Cheſhire*, *Darbyſhire*, *Yorkſhire*, N
thumberland, *Biſhoprick of Durham*, *Cumberl*
and *weſtmoreland* ſhall be provided for in
Townſhip and Village where they inhabit,
were laſt legally ſettled: And two or more
verſeers ſhall be choſen in every Townſ
&c. who ſhall execute all powers for the
lief of the Poor under the Penalties mentio
in 43 *Eliz.* c. 2.

This Act of 13 & 14 *Car.* 2. *c.* 12. wa
continue no longer than to the end of the
Seſſion of the next Parliament, but revived
1. *Jac.* 2. *c.* 17. to continue for ſeven years,
to the end of the firſt Seſſion of the next P
liament.

And whereas poor Perſons at their
coming to a Pariſh, do commonly conceal the
ſelves, the forty days intended by the ſaid
to make Settlement, ſhall be accounted fr
the time of their deliveries of notice in wr
ing of their Houſe of Abode, and the numb
of their Family, if they have any, to one
the Churchwardens or Overſeers of the Po
of the ſaid Pariſh, 1 *Jac.* 2. *c.* 17.

No Man but a Vagrant Begger, ought to b
ſent out of any Pariſh to the place of his Bir
or laſt Habitation; for if any refuſe to wo
in the Pariſh where he is ſettled, or to wo
for the Wages aſſeſſed, then he is by the Juſtic
to be ſent to the Houſe of Correction, &c.

1 Inſt. fol. 730. 7 *Jac. c.*4. *Reſol. Judges* 9. *Dalt. P. c.*73. *f.*157. 39 *El. c.*4. 1 *Jac. c.*7.

If a Scholar in the Univerſity, or in a Grammar School begin to be ſuſpect, he may be, or he doth become impotent, and is like to be a Charge to the Pariſh where he is, he muſt be ſent to his Parents if he have any, otherwiſe to the place where he was laſt legally ſettled before he came to School, *Reſ. Judges* 633, *ſect.* 32.

If one be Born, and live 20 years in *A.* and then go to *B.* and there live in a Houſe and pay the Rent, and after he come to *C.* and there works 20 Weeks as a Labourer in a Quarry of Stones, where he breaks his Back, and becomes impotent, and there is taken vagrant and begging, in this caſe he muſt be ſent to *A.* the place of his Birth, and there muſt be provided for, *Reſ. Judges*, 14 *Car.* 1.

If a Man that hath a Wife and Children, take a Houſe in one Pariſh for a Year, and during that time he is illegally forced out of his Poſſeſſion; then he takes an Houſe as Inmate in another Pariſh, out of which he is put within two or three days, and then not having any place to be in, he gets into a Barn in the third place, and there his Wife is delivered of another Child: In this caſe they are all to be ſent to the Pariſh out of which they were firſt illegally forced, *Reſol. Judges* 1633. *ſect.* 24.

One Born in *D.* left that place for the ſpace of 20 years, then lived in *S.* took an Houſe and paid Rent, and left that place alſo ſix or ſeven years, and then came to *L.* in another County, and there was twenty Weeks, did Work, and

there became impotent, and did wander, [illegible] beg in the ſame place, and was taken as a [illegible] grant, and it was ordered he ſhould be p[illegible] and ſettled at *D.* where he was Born, by [illegible] Judges at *Worceſter* Aſſizes, 14 *Car.* 1. *Boulſt.* [illegible] 1 *part*, *f.* 375.

No Child under the Age of ſeven years ſ[illegible] be adjudged a Rogue within the *Stat.* 39 *El.* [illegible] But it ſeems ſuch Children vagrant and beg[illegible] muſt be ſent and placed with the Father [illegible] Husband of the Wife; and if he be dead, t[illegible] with the Mother (where ſhe was born, or [illegible] dwelt by the ſpace of one year) and ſuch Chil[illegible] dren, once thus ſettled or placed, muſt the[illegible] remain, and not be ſent from thence to the[illegible] place of Birth, though after their Parents d[illegible] or run away, or that the ſaid Children g[illegible] above the Age of ſeven years, yea, though t[illegible] ſaid Children after beg, and prove vagrant [illegible] the Town, for there they muſt be ſet to labo[illegible] by the Overſeers of the Poor, *Dalt. J.P. c.* [illegible] *f.* 209.

But Children above ſeven years of Age, g[illegible] ing about vagrant, or begging in the Co[illegible] try, ſhall be puniſhed as Rogues, and ſent [illegible] their place of Birth, *Dalt. J. P. ch.* 83. *f.* [illegible] 209.

The Wife being a Vagrant Rogue, muſt [illegible] ſent to her Husband, though he be but a Ser[illegible] vant in another Town; and where the Husba[illegible] and Wife have an Houſe, (though as an I[illegible] mate) and either of them Rogue about, [illegible] this caſe they are to be ſent to the place whe[illegible] the Houſe is, *Dalt. J. P. c.* 83. *fol.* 209.

The

The Rogue, whose place of birth or last dwelling cannot be known, having Wife and Children under seven years of Age, they must go with the Husband to the place where they were last wilfully suffered to pass through without punishment, where the Children must be relieved by the Work of their Parents, though the Parents be committed to the House of Correction; and if the Rogue have Children above seven years of Age, that Rogue about with him, then they are to be sent to the House of Correction also with the Parents, and when they come out again, then to their several places of births, *Dalt. J.P. c.* 83. *f.* 206. and *Shephard's Guide tot J.P. pag.* 252. *Ref.* &c. *h.*

If I live in a House in *A.* there with my Children, but I work in *B.* where I am hired by the year, in this case my Children shall be in *A.* but if I have an House in *B.* they shall be placed there, *Dalt. J.P. c.* 73. *f.* 158.

A. being a Wanderer with three Children born in three Parishes, comes to *Dale* with them to her Sister, and there dieth shortly after, here the Children must be settled in the several Parishes where they were born, and not in the Parish where the Mother died, *Boulst. Rep.* 2 *part*, 351.

No Man is to be put out of the Town where he dwelleth, and is lawfully settled, nor to be sent to his place of Birth, or last Habitation, but a Vagrant Rogue, not to be found by the Town, except the Party be Impotent, but they ought to set themselves to labour, if they be able and can get Work; and if they cannot get Work, then the Overseers are to set them to work; and if in such case such Persons wander abroad

begging out of the Parish, then they may be sent as Vagabonds (from the place where they shall be taken wandring or begging) to the place of their Birth, *Dalt. J.P. c.* 83. *f.* 209.

If a Maid Servant be gotten with Child at A by her Fellow-Servant (or by another Man in the same Town) and after both their Services ended, they Marry, and then the young Man is retained at *B.* and afterwards the Woman is delivered of her Child, in this case she with her Child are to be sent to the Father at *B* and there must be settled, *Dalt. J.P. c.* 73 *f.* 159.

If any disturbance be made to any Settlement lawfully ordered by the Justices, either by the Constables refusing to receive and convey a Rogue where they ought to do it, or by the Churchwardens and overseers of the Poor in refusing such an one as is duly sent to be settled there, in such case they forfeit 5 *l.* by the 39 El. *c.* 4.

If a Woman unmarried be hired Weekly, Monthly, half Year, or Yearly, in one Parish, and there be gotten with Child, and then goeth to another Parish, and there is settled in Service, or otherwise for two or three Months, and then she is discovered to be with Child, in this case she and her Child shall be settled in the Parish where she then is, and must not be sent to the Parish whence she came, *Resol. Judges* 1633. *sect.* 12.

If a Woman be delivered of a Bastard Child in one Parish, and then go into another Parish with her Child, in this case the Child after it is nursed, is to be sent to, and settled in the place where it was born, and not to remain with the Mother, *Resol. Judges* 1633. *sect.* 23.

If *A.* have a Baſtard Child by *B.* born in *Dale*, and the reputed Father marries another Woman, and they breed the Child 10 years in the Pariſh of *Sale*, and the Mother of the Child is in Service all this while, and a ſingle Woman, the reputed Father dies; in this caſe the Child is to be ſent to the Mother firſt, to be maintained by her, if ſhe be able, and if not, it muſt be kept by the Pariſh of *Sale*, where it was ſettled with the Father 10 years, *Boulſt. Rep. 2 part, fol. 350.*

If a Woman have a Baſtard Child, and is like to be chargeable to the Pariſh, and ſhe is ſent to the Houſe of Correction for it (as ſhe may be by Law) in this caſe it hath been queſtioned whether the Child muſt go with her, or remain in the Town where it was born, (or ſettled with the Mother) and there to be relieved by the Work of the Mother, or by Relief from the Reputed Father, upon the 18 *El.* and it ſeems moſt reaſonable to be ſo; and yet the common opinion and practice is otherwiſe, (to wit) to ſend the Child with the Mother to the Houſe of Correction: And this may alſo ſeem reaſonable where the Child ſucketh on the Mother, *Dalt. J.P. c.* 11. *f.* 41.

If a Woman with Child be ſent to the Houſe of Correction, and there be delivered, the Child muſt be ſent back to the Pariſh where the Woman came from, there to be relieved. Alſo if a Woman be travelling, and have her Child with her, and is apprehended and ſent to the Goal, and there hanged for Felony, in this caſe the Child ſhall not be chargeable to the place where the Goal is, but to the place where it was born (if it can be known) otherwiſe to

the place where the Mother was apprehend
and ſo was the opinion of Sir *Nicholas*
3 *Car.* 1.

The two next Juſtices (*Quer. unus*) in
next to the Limits where the Pariſh Church
may take order as well for the puniſhmen
the Mother, and reputed Father of a Baſt
Child, as alſo for the Relief of the Pariſh wh
it is born, by charging the Mother and Fa
with the payment of Mony weekly tow
the keeping of it, or otherwiſe: And if
Mother or Father perform not the Juſtices o
der therein, they are to ſuffer Impriſonm
without Bail, except he or ſhe give Security
perform, or elſe to appear at the next Seſſion
and abide the order of the Juſtices there, if
be made there; and if none be made, then
ſtand to the firſt order, *Dalt. J. P. c.* 11. §
18 *El. c.* 3.

Note, That this Order may be made by
two Juſtices of the County (*Quer. unus*) as
held by ſome, but moſt properly by the
next Juſtices, and the queſtion muſt be ab
ſuch a Baſtard Child as is like to be a ch
to the Pariſh; and the Security muſt be gi
to the Pariſh where the Child is born, to
cure the Pariſh from the charge of the Chi
or to keep the Child: it muſt be a Pariſh wi
in the County where the two Juſtices ha
power, and the Order muſt be certain h
long the reputed Father muſt keep the Chil
ſecure the Pariſh, *&c.* and it muſt be made
gainſt the Perſon that is ſuſpected to have g
ten the Baſtard Child, and not againſt anoth
Perſon to contribute towards it, becauſe it w
gotten in his Houſe, *&c.* and the Order mu
expre

press the Child by the Name of a Baſtard Child, and not the reputed Child of ſuch an one; and the Juſtices for the better diſcovery of the Matter, may upon Oath examine the Mother her ſelf concerning the reputed Father, the time, &c. *Dalt. J. P. c.* 11. *fol.* 40. 18 *Eliz.* 3. 7 *Jac. c.*4. See *Steels Rep. fol.* 154,245,246, 247,388. and ſee *Pridgeons* Caſe, *Hill.* 9 *Car.* 1. *B.R.* and *Slaters* Caſe, *Paſch.* 13 *Car.* 1. *B.R. Cro. Rep.* 1 *part.*

CHAP. V.

The Overſeers Office in making of Rates, and paſſing Accounts.

THE Churchwardens and Overſeers of the Poor, or the greater part of them (for the doing and performing of the things they have in charge) may raiſe weekly, or otherwiſe by Taxation of every Perſon, Vicar, and other Occupier of Land, Houſe or Tithes, Coleines, or ſaleable Underwoods, within the Pariſh, Town, &c. ſuch a Sum as they ſhall think fit; and this Rate they muſt have allowed and confirmed under the Hands of two Juſtices (*Quer. unus*) and then by Warrant from them, or any other two Juſtices (*Quer. unus*) they may levy by diſtreſs and ſale of the Goods of the Party refuſing to pay the ſaid Tax, rendring the overplus to the Owners, and in default of Diſtreſs, two ſuch Juſtices may commit the Party to priſon, there to remain without Bail till he be diſcharged by him, 43 *El.*

ch. 2. Dalt. J. P. c. 73. f. 148. Wingates Stat. Poor People.

Now these Rates ought to be well and ... made, according to Mens visible Estates, real ... personal, within the place only, and not ... any Estate elsewhere; at *Lincoln* Assises, 9 *Car.* by Justice *Hutton*, and *Crook*.

Note, That a Parish in Reputation, shall ... Parish within this Law: so that if *A.* be an ... cient Parish that hath Officers in it, and ... be a Town within this Parish, which for a ... time hath been used, and reputed as a Par... and hath all Parochial Rights, as Churchw... dens, *&c.* here this place may be rated ... Parish towards the Poor, *Huttons Rep. fol.* 93 ... *M.* 3 *Car. B. R. Hilton & Pauls* Case, *Cro.* 3 ... *Rep.*

This Tax must be set upon the Tenants ... Occupiers of Lands; and not upon the La... lords Living within or without the Parish; ... the Tenant only is chargeable for the Land, ... *strods* 1 *part*, *Rep. fol.* 354.

The Parson having a full tenth Part of ... Profits of the Place, may be rated to a tenth ... *Resol. Judges* 1633. *sect.* 33.

He that doth occupy Lands in his own Hand ... lying in several Parishes, he must be charg... in every Parish for his Land lying therein, ... according to the proportion thereof, and ... more; but for his personal Estate it seems re... sonable he should be charged for it in the pla... where his Person is: All Lands Ancient D... mesn, Guildable and Copyhold, are to be charged with these Rates, which ought to be according to the value, or by the pound, and not according to the quantity, *Sed consuetudo tollit Legem.*

The

The Rate for Stock or Goods is thought reasonable to be set after the proportion of Lands, (*viz.*) an 100 pound in Stock to be rated after 5 or 6 pound a year in Land.

Note, That in some special Cases a Man may be rated beyond his Ability; as where one brings a Charge upon a Parish; or under any pretence brings in a Man that may be chargeable in a Parish, he may, if there be cause for this, be raised in his Rate to the full value of his Estate; and so was the Opinion of Sir *Nicholas Hide*, *Dalt. J.P. c.73. f.167.*

Where the Inhabitants of any Parish are not able to relieve their Poor, any two Justices (*Quor. unus*) may tax other Parishes and Places within the Hundred, yea, the whole Hundred, if need require; and where that is not sufficient, the Justices in their Sessions may tax the County in part, or wholly at their discretion, 43 *El.* c.2. *Wingates Abr. Stat. Tit. Poor People*, 14 *Car.2.* c.12.

If any Persons find themselves aggrieved in any Tax, or other Act done by the Overseers, or by the Justices of Peace, they are to be relieved at the Quarter Sessions, *Dalt. J.P. c.73. f.160. Wingates Abr. Stat. Tit. Poor People.*

The Father, Grandfather, Mother, Grandmother and Children of every poor Person, shall be assessed towards their Relief, as the Justices of the Peace in their Sessions of the Peace in the County where such Father, *&c.* dwells, shall limit and appoint, on pain to forfeit 20 *s.* a month, to the use of the Poor, to be levied by distress and sale as aforesaid, and for want of distress to be committed to Prison till the

Forfeiture be paid, 43 *El. c.* 2. *Wingates Abr. Stat. Tit. Poor People, Dalt. J.P. c.* 73. *f.* 156.

Head Officers in Cities and Corporate Towns and Aldermen of *London*, have in their several Precincts like Authority that Justices of Peace have in their Counties, and no other Justices of Peace are to enter and intermeddle there. *Wingates Abr. Stat. Tit. Poor People*, 43 *El. c.* 2.

If any Parish shall extend into two Counties or part thereof to lie in any City or Corporate Town where they have Justices: Then the Justices of every County, *&c.* are to intermeddle only within their own Limits; and every of them respectively within their Limits are to execute this Law concerning the nomination of Overseers, binding of Apprentices, granting Warrants to levy Taxations, taking Accounts of Overseers, and committing such as refuse to account, or to pay their Arrearages; and yet the Overseers shall without dividing themselves execute their Office in all places within the said Parish, but shall give up Accounts to the Justices, or Head Officers of both Places, *Wingates Abr. Stat. Tit. Poor People*, 43 *El. c.* 2. *Dalt. J.P. c.* 73. *f.* 156.

These Officers within four days after the end of their Year (and that other Officers are nominated) are to yield up a true Account to two Justices (*Quor. unus*) of these things following, 1. What Sums of Mony they have received, or rated and not received? 2. What stock of Ware or Stuff is in their Hands, or in the Hands of any of the Poor? 3. What Apprentices they have put out, and bound according to the Statute? 4. What Poor they have set to work or relieved? 5. What Poor they

they have suffered to wander and beg out of their Town, or in the Highways, or in their Town without their directions? 6. Whether they meet monthly to consider of the things belonging to their Office? 7. Whether they make their Rates indifferent upon all Men, according to their Ability? 8. Whether they have endeavoured to gather and levy such Assessments? 9. Whether they have neglected the Justices Warrants to them, or any of them directed for the levying of any Forfeiture according to the Stat. 43 *El. c.*2. *Dalt. J. P. c.*73. *f.*153.

By the Statute of 30 *Car.* 2. for Burying in Woollen, the Justices are not to allow the Accounts of the Overseers of the Poor, until they have given them an Account of the Burials and Certificates, and of their levying the Penalties in pursuance of that Act, 30 *Car.*2. *c.*3.

Now if the Churchwardens, or Overseers, or any of them, shall refuse to make and yield a true and perfect Account to the said Justices, of all such Mony, and of all such Stock as aforesaid, any two Justices (*Quor. unus*) may commit them to the common Gaol, there to remain without Bail, till they have made a true Account, and satisfied, and paid to the new Overseers so much of the said Sum or Stock, as upon the said Account shall be remaining in his or their Hands, *&c.* And if they make a false Account, they may be bound over to the Assizes or Sessions, and there an Indictment may be preferred against them, *Dalt. J.P. c.*73. *f.*154.

Also,

Alſo if any of the Churchwardens or Overſeers ſhall refuſe, or deny to pay, or deliver over to the new Overſeers the Arrearages (Sums of Mony or Stock) which ſhall be in their Hands, and due, and behind upon their Account to be made as aforeſaid, any two ſuch Juſtices of Peace may make their Warrant to the preſent and ſubſequent Churchwardens and Overſeers, or any of them, to levy the ſame by diſtreſs and ſale of the Offenders Goods, rendring to the Parties the overplus, and in default of ſuch diſtreſs, any two Juſtices of the Peace may commit him or them to the common Goal, there to remain without Bail, until payment or delivery of the ſaid Sum, Arrearages and Stock be made, 42 *El. c.* 2. *Dalt. J.P. c.* 73. *f.* 154.

If any ſuch Stock ſhall be in the Hands of any of the Poor to work, and ſuch Poor ſhall refuſe to deliver the ſame, two ſuch Juſtices may make the like Warrant, to levy the ſame by diſtreſs, and for lack thereof, may commit ſuch Offenders to the Goal, as aforeſaid, *Dalt. J.P. c.* 73. ibid.

And for theſe aforeſaid, and all other Negligencies of the Churchwardens and Overſeers, in the Execution of their Office, about the Poor, *&c.* every of them, for every Default, he makes, forfeits 20 *s.* which Default muſt be proved either by the Offenders own Confeſſion, or by Examination of Witneſſes, and it is to be levied by the new Churchwardens and Overſeers, or one of them, by Warrant from two Juſtices, as aforeſaid, by diſtreſs and ſale of the Offenders Goods; and for want of Diſtreſs, two ſuch Juſtices may commit Offenders to the Goal, there to remain without Bail, till the

ſaid

said Forfeitures shall be paid; which said Forfeitures are to be imployed to the use of the Poor of the said Parish, *Dalt. J.P. c. 73. f. 155. 43 El. c. 2.*

CHAP. VI.

The Overseers Duty about Weights and Measures, and Burying in Woollen.

THere shall be one Weight, one Measure, and one Yard, according to the Standard of the *Exchequer*, throughout all the Realm, as well in places Priviledged, as without, and every Measure of Corn shall be strikked without Heap: And whosoever shall keep any other Weight, Measure, or Yard, whereby any Corn, Grain, or other thing is bought or sold, shall forfeit for every Offence five shillings, being thereof convicted, by the Oath of one sufficient Witness, before any Justice of Peace, or Head-Officer of the City, Town, or Place where the Offence is done, to be levied by the Churchwardens or Overseers of the Poor of the Parish, to the use of the Poor of the said Parish, by Distress and Sale of the Offenders Goods, and for want of Distress, to be imprisoned without Bail until payment. And all Persons, upon Suit against him or them, for any thing done upon this Act, to plead the General Issue, and give the Act in Evidence, and to have treble Costs, if unjustly vexed, *Dalt. J.P. c. 112. f. 246. 17 Car. 2. c. 19.*

No-

No Corps shall be buried in any thing other than what is made of Sheeps Wool only, or be put into any Coffin lined or faced with any thing made of any material but Sheeps Wool, on pain of the Forfeiture of five pounds, 30 Car. 2. c. 3.

An Affidavit under the Hands and Seals of two Witnesses (or under the Hand of the Magistrate or Officer before whom it was sworn, for which nothing shall be paid) must be brought to the Minister within eight days after the Party is interred, that he was not buried contrary to this Act, which shall be taken before some Justice of Peace, Master of Chancery, Ordinary or Extraordinary, Mayor, Bailiff, or other chief Officer of the City, County, Borough, &c. where the Party was buried: And if no such Affidavit be brought, the Minister shall give notice thereof under his Hand to the Churchwardens or Overseers of the Poor, who within eight days after shall repair to the Chief Magistrate in any Town, &c. if buried there, else to a Justice of Peace, who upon Certificate thereof from the Minister, &c. shall grant a Warrant for levying the Forfeiture by distress and sale of the Goods of the Party deceased, or in default thereof, of the Persons Goods in whose House the Party died, or the Goods of any that had a Hand in putting such Party into any Shroud, Coffin, &c. contrary to this Act, or that ordered the same: And if such Person were a Servant, and died in the Masters Family, the Masters Goods to be liable: And if such Person died in his Parents Family, the Parents Goods to be liable: One Moiety of which Forfeiture shall be to the Poor of the Parish where

where the Party is buried, the other to him that shall sue for the same, 30 *Car.*2. *c.*3.

Ministers, Churchwardens, and Overseers, Justices of Peace, or Chief Magistrates, neglecting their Duty aforesaid, shall forfeit five pounds for every Offence, to be recovered by Action of Debt, Bill, Plaint, *&c.* wherein the Prosecutor shall recover his full Costs, so as the Suit be commenced, within six months after the Offence committed; one fourth part of the Forfeitures to the King; two fourth parts to the Poor of the Parish where the Offender dwells; and one fourth part to the Informer, 30 *Car.*2. *c.*3.

Every Minister shall keep a Register of all Burials and Affidavits: And where no Affidavit is brought as aforesaid, shall enter a Memorial thereof against the Name of the Party interred, and of the time when he notified the same to the Churchwardens or Overseers of the Poor. And the Overseers when they give up their Accounts at the Sessions, or to any two Justices at their monthly Meetings, shall give an account of the Name and Quality of every Person interred since their former Account; and of such Certificates, and of their levying the Penalties, and of their disposal thereof, on pain of five pounds to be levied by distress and sale of Goods, by Warrant from the said Justices, or two of them: and their Accounts shall not be allowed till they have accounted for their Burials, 30 *Car.*2. *c.*3.

No Penalty shall be incurred where the Party died of the Plague: If any Person be prosecuted, for what he shall do in pursuance to this Act, he may plead the General Issue, and give this

Act

Act in Evidence: And upon a *Nonsuit*, Discontinuance or Verdict for him, or Judgment upon a Demurrer, he shall have treble Costs, 30 *Car.* 2. *c.* 3.

And now by the Statute of 32 *Car.* 2. (where no Justice of Peace shall reside, or be to be found in any Parish where any Party shall be interred) such Oaths or Affidavits may be administred, not only by such Magistrates as aforesaid, but by any Parson, Vicar, or Curate in the same County, other than of the Parish or Chappel of Ease where the Party is interred; and they are to attest the same under their Hands gratis, 32 *Car.* 2. *c.* 1.

The Overseers Duty about *Irish* Cattel, See *Duty of Constables, ch.* 8.

Their Duty in suppressing Conventicles, See *Duty of Constables, ch.* 9.

Note, That the Overseers of the Poor, are to receive for the use of the Poor of the Parish where the Offence is committed, of such who kill, or take in the night-time any Conies upon the Borders of Warrens, or other Grounds lawfully used for keeping of Conies, except Owners, *&c.* or Persons by them imployed, and of such who use Snares, Harepipes, or other like Engines, or who take any Fish by any Net, Angle, or other Device whatsoever, in any Water or River, or shall be assisting thereunto, without consent of the Lord, or Owner of the said Water, what Sum the Justice of Peace before whom such Offender shall be convicted, shall think meet, not exceeding ten shillings (which he is to pay over and above recompence to the Owner:) And in default of payment thereof, he that takes or kills such Conies

Conies, or uſeth Snares, &c. ſhall be committed to the Houſe of Correction for any time not exceeding one month: And the Goods of him that takes ſuch Fiſh ſhall be liable to diſtreſs; and for want of a Diſtreſs, he ſhall be committed to the Houſe of Correction, for any time not exceeding one month, unleſs he enter into Bond with one or more Sureties to the Party injured, not exceeding ten pounds, never to offend in like manner, 22 and 23 *Car.* 2. c. 24.

A GUIDE FOR SURVEYORS OF High-ways and Bridges.

CHAP. I.

How many Sorts of ways there are; of the Choice of these Officers, with some few General Cases concerning Highways.

THere are three kind of Ways; First, A Foot-way, called *Iter, quod est jus eundi, vel ambulandi hominis.* Secondly, a Foot-way and an Horse-way, called *actus, ab agendo*, and this vulgarly is called a Pack or Drift-way, and is both a Foot-way and Horse-way. Thirdly, A Cart-way, *&c.* called *Via* or *Aditus*, (and containeth the other two, and a Cart-way also) for this is *jus eundi, vehendi, & vehiculum & jumentum.*

jumentum ducendi; and this is two-fold, *viz.* *Via Regia*, The Kings High-way for all Men, & *communis Strata*, belonging to a City or Town, or between Neighbours.

It is called the Kings High-way, for that the King at all times hath therein Paſſage for Himſelf and his People, and may puniſh all Nuſances therein, though otherwiſe the Intereſt be in the Lord to bring his Action for digging therein, or other like Treſpaſs there done. *Dalt. J.P. c.*50. *f.*101. and ſee *Rolls* Caſes, 1 *par.* *f.*392. 2 *E.*4.9. 8 *E.*4.9. 17 *E.*3. *f.*43. *Bro Chemins*, 10,11. & *Lett* 3. 27 *H.*6 *f.*9. 8 *H.*7. *f.*5.

The High-way is not only the Common Tract, where Carts, Carriages, and People have gone; but if the Way be Foundrous, that People cannot paſs in the Common Tract, and there be Out-lets out of it, into the Soil of another adjoyning, the People may in ſuch extremity uſe thoſe Out-lets upon anothers Soil, although it be ſowen with Corn: And that is in ſuch caſe, the Kings High-way as well as the other; for the Kings Subjects muſt have a convenient Paſſage, as was reſolved in a Tryal at Bar againſt Sir *Henry Duncomb*, *Tr.* 10 *Car. Rolls* 1 *part of Abridgment*, *fol.* 390. Therefore where a Way goes through a Mans Land, and the Owner of the Land Fence it on both ſides, he, by ſo doing, hath made himſelf liable to repair the High-way, and keep it paſſable; and it is not ſufficient for him to keep it in as good repair, as it was at the time of the Inclоſure; for by ſo doing he hath ſtraitned the High-way, *Dalt. J.P. c.*50. *f.*98.

The

The Conſtables and Churchwardens of every Pariſh ſhall yearly, upon *Tueſday* or *Wedneſday* in *Eaſter* Week, call together a number of the Pariſhioners, and then make choice of two of the Pariſh to be Surveyors of the High-ways the Year following, who ſhall forthwith take that Office upon them, on pain to forfeit twenty ſhillings apiece, 2 & 3 *Ph.* & *Mar. c.* 8.

The Conſtables and Churchwardens are then alſo to appoint ſix days betwixt that and the four and twentieth day of *June*, for the amendment of the High ways, and to give publick notice thereof in the Church the next Sunday after, 2 & 3 *P.* & *M. c.*8. & 5 *El. c.*13.

High-ways muſt be ſufficiently amended at the charge of the whole Town: And it is not enough for the Inhabitants to do their full ſix days work yearly; except their Ways be all well and ſufficiently repaired thereby: For if all their ſaid Ways be not ſufficiently amended, the whole Town may be indicted therefore, and if ſix days work in the year will not ſerve to amend them, the Surveyors may, yea, muſt appoint more days, *Dalt. P. J. c.*50. *f.*101.

The Owner of Lands, if he be not the Occupier thereof, ought not to be charged towards the repair of the common High ways; but the Tenant who occupies the Lands is to be charged *Bill.* 1 *Car.* 1. *Er.* in one *Foſters* Caſe, *per Curiam*, *Rolls Caſes*, 1 *part*, *f.*390.

All Fines and Forfeitures aſſeſſed in the Seſſions, upon the Statute 5 *El.* about High-ways, muſt be Eſtreated by the Clerk of the Peace, and muſt be levied, accounted, and imployed as appointed by the 2 & 3 *Ph.* & *Mar. c.*8. 5 *El. c.*13.

The

The Surveyors upon Warrant from two Justices of Peace, are to levy by distress and sale of Goods, the Forfeitures of all such Persons as offend against the 18 *El.* 10. in not Scowring their Ditches, *&c.* and if they neglect by the space of a year after the Offence committed, to levy the Forfeiture; Then the Justices may send to the Constable and Churchwardens to levy the same, 18 *El. c.*10.

By the Stat. 22 *Car.*2. *c.*12. All Constables and Surveyors of the High-ways shall put in execution the Statutes for repairing and inlarging High-ways, and levy the Penalties thereby imposed. And every Constable or Surveyor of the High-ways neglecting so to do, or wilfully suffering any Waggons or Carts to pass through his Limits, with any more Horses or Cattel, or in any other manner than this Act alloweth, upon Conviction thereof by one Oath before one Justice, or the Justices own view, shall pay such Fine (not exceeding 40 *s.*) as such Justice shall Assess.

All Actions brought against any Person for acting by this Law, shall be laid in the proper County, and Defendants may plead the General Issue, and recover treble Costs.

No travelling Waggon, Cart, *&c.* in which any Burdens shall be carried, (except Carts used about Husbandry, and carrying Hay, Straw, Corn unthrashed, Coal, Chalk, Timber for Shipping or Building, Stones of all sorts, Ammunition or Artillery for the King) shall be drawn, or go on any Road or publick High way, with above five Horse-beasts at length, and if any draw with more Horses or Oxen, he shall draw all two abreast, except one Horse.

Every

Every Owner of any Waggon, Cart, &c. Horse Beasts, shall forfeit for every Offence 40 s. one third part to the Surveyors to amend the Ways; one third part to the Overseers for the Poor; the last third part to him who shall discover the Offender.

The Surveyor, where any neglect to come and labour, shall complain thereof to the next Justices, who upon Oath of one Witness, shall levy for every days labour neglected 18 d. and for every Man and Horse 3 s. and for every Cart with two Men 10 s. for each day neglecting, 13 Car. 2. c. 12.

CHAP. II.

Of the Duty of the Surveyors about Setting and Calling the Parishioners to the common days works for the High-ways, and about taking and digging for Gravel, Chalk, Sand, &c.

THese Officers are to see that the Parishioners do their Work on the days appointed, and that according to these Rules following.

1. Every Person having in his own Occupation a Plough Land in Tillage, or in Pasture in the same Parish, or keeping there a Plough or Draught, shall find and send on every day to the place appointed by the Surveyors, one Wain or Cart provided, after the Fashion of the Country, with Oxen, &c. fit for the Carriage, and with necessary Tools fit for the Work, and with two able Men, who are there to do such Work with their Wains, &c. as they shall be appointed (by the Surveyors) by the space

of

of eight hours every of the ſaid ſix days, on pain of 10 *s.* every day default is made, 2, 4 *P. M. c.* 8. *Raſtall.* 199. *Lamb.* 459. *Wingates Abr. Stat. Tit. High-ways, Dalt. J.P. c.*50. *f.*102.

And every other Houſholder, Cottager, and Labourer of the Pariſh, Town, *&c.* (able to labour, and being no hired Servant by the year) muſt by himſelf, or ſome other able Man, be then and there ready to work every of the ſaid ſix days, by the ſpace of eight hours, as aforeſaid, where they ſhall be appointed by the Surveyors, under pain to forfeit 12 *d.* for every day they make default, 2, 3 *P. M. c.*8.

Note, That all Perſons being chargeable but as Cottagers, by the 2 & 3 *P. M* yet if they be in Subſidy 5 *l.* in Goods, or 40 *s.* in Lands, or above, they muſt find two able Men to work every of the ſaid ſix days, 18 *El. c.*10. *Wingates Abr. Stat Tit. High-ways.*

If any of the Carriages ſhall not be thought needful by the ſaid Surveyors upon any of the ſaid days, they may appoint inſtead of a Team, two able Men to work as aforeſaid, who ſhall not fail on pain that the Party that ſhould ſend them, ſhall forfeit 12 pence for every day that either of them make default, *Wingates Abr. Stat. Tit. High-ways*, 2, 3 *P. M. c.*8. *Dalt. J.P. c.*50. *f.*100.

He that ſhall occupy a Plow land in Tillage or Paſture, lying in ſeveral Pariſhes, ſhall be chargeable only in the Pariſh where he dwelleth; and he that occupieth ſeveral Plow-lands in ſeveral Pariſhes, ſhall be charged in each Town or Pariſh where ſuch Land lieth (to wit) to find in each Town or Pariſh one Cart furniſhed

niſhed as aforeſaid, though he be no Inhabitant there, 10 *El. c.*18. *Dalt. J.P. c.*50. *f* 99.

Now for the further opening of theſe things, note, That it is ſaid, that a Plow-land is not of any certain Contents, but ordinarily it is ſo much as one Plough may Plough in one day, which in ſome Countries is more, and in ſome leſs, according to the heavineſs of the Soil, *Co.* 9 *Rep. f.* 124. *Co.* on *Lit. f.* 69. & *vide Lamb. ver. Hide* 35 *H.*6. *f* 29.

And note, That a Plow-land, or Carve of Land may contain Houſe, Meadow, Paſture and Wood: And if one have ſo much of this as will keep a Plough, and yield Tillage for it, if part of it were cared, in this caſe it ſeems he is to ſend his Plough, *Vide Co.* 4 *Rep f.* 37. *b.* & 9 *Rep. f.* 122.

He that hath a Plough land, and no Plough, but doth ſuffer his Land to lie freſh, yet he is to find a Plough for this Work; and ſo it hath been agreed by the Judges, *Mich.* 21 *Jac. Dalt. J.P. c.*50. *f.* 105.

He that keepeth a Plough, or Draught for Carriage, although he occupieth little or no Land, but carrieth or plougheth for other Men, yet it ſeems he is to ſend his Cart to the High-ways; and if a Man keep only two Horſes and a Cart for his own Buſineſs, in this caſe it ſeems he is to come with his Cart and two Horſes, with a Man to manage them, *Vide Dalt J.P. c.*50 ibid.

It is held by ſome, that ſo many Ploughs or Draughts Men have, and uſe frequently about their own Buſineſs in Summer, ſo many they are to bring with them to the High-ways; ſo that if a Man have one Plough and five or ſix Horſes, and ſhall Plough ſeven or eight ſcore Acres of Land, and ſhall uſually go in the Summer time

with two Carts or Draughts; in this case it seems he is to come with two Carts or Draughts to this Service: And he that occupieth 40 or 50 Acres of Land, and keepeth only three Horses, and one Draught or Cart, he is to come with one Draught or Cart, *Dalt. J.P. c.* 50. *f.* 105.

These Officers may, if they see cause, for the amendment of the High-ways, take and carry away so much of the Rubbish, and smallest broken Stones already digged, of any Mans Quarry lying within the same Parish, without leave of the Owner, as they shall think needful, or gather the loose Stones lying dispersed in any Mans Grounds; but they may not without Licence dig in any Mans Quarry for new Stones, nor take the great Stones already digged; and if there be no such Rubbish to be found in any Mans Quarry within the said Parish, then may they enter into any Mans several Ground within the Parish, lying near the place where the Ways are decayed, and there (if they see any hope of finding Materials fit for the Reparation thereof) without leave of the Owner, they may dig for Sand, Stones, Gravel, *&c.* so that it be not in the Houses, Gardens, Orchards, or Meadows of any Man; for they are not to come there without Licence of the Owner; and in such place where they may dig without leave, they are not to make a Pit above ten yards in breadth, or length, and they are to take care that the place be filled up again at the charge of the Parish within one month after, upon pain to forfeit five Marks to the Owner of the Ground, to be recovered by Action of Debt; and this by the 5 *El. c.* 13.

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CHAP. III.

The Surveyors Duty about cutting down Bushes, Trees, and scouring of Ditches in the High-ways; and also touching Presentments and Inquiries about Defaults, passing of Accounts, Travelling of Wagons, Wains, &c.

IF the Owners of the Grounds, next adjoyning to the High-ways, do not keep their Hedges low, and cut down their Trees and Bushes growing in the same ways, they forfeit ten shillings, *Wingates Abr. Stat. Tit. High-ways*, 5 *El. c.* 13. 18 *El. c.* 10.

And he that scours not his Ditches in the Ground next adjoyning to the Ground that is next the High-ways, to the end the Water may have the better passage out of the High-way, shall forfeit 12 pence for every Rod so left unscoured, 18 *E. c.* 10. *Wingate, ut supra.*

If any scour his Ditch by the High-way side, and throw the scouring thereof into the High-way, and suffer it to lie there six months, he forfeits for every Load thereof 12 pence; and the Surveyors are to make Sluces where such Banks have been heretofore made, for carrying away the Water out of the High-way, 18 *El. c.* 10.

Every Surveyor may cause any Water-course, or Spring of Water in the High-way, (within their Parish) to be turned into another Mans several Ditch or Ground next adjoyning to the said Way, in such manner as by the discretion of the said Surveyor shall be thought meet, *Dalt. J.P. c.* 50. *f.* 103.

Note, That the Forfeitures of the Act of the 18 *El. c.*10. must be levied by the Surveyors for the time being, (by Warrant from the Justices before whom the Party shall be convict) by Distress and Sale of Goods; which Forfeitures are to be employed towards the amendment of the High-ways; and if the Surveyors neglect to do it within one year after the Offence committed, then the Constables and Churchwardens by like Warrant may do it, 18 *El. c.*10. *Wingates Abr. Stat. Tit. High-ways.*

The Surveyors, or one of them, are to present to the next Justice of Peace every Default upon the 2 & 3 *P.* & *M. c.*8. & 5 *El.* c.14. within one month after it shall be made, on pain of 40 *s.* and the Justice is on pain of 5 *l* to certifie the same at the next Quarter Sessions, where the Justices have power to inquire of the Default, and shall set such Fine upon the Delinquents, as they, or two of them (*Quor. unus*) shall think fit, 5 *El. c.*13.

That the Presentment of a Justice of Peace in Sessions, upon his own Knowledge shall be a good Conviction, whereupon the Justices in Sessions, or any two of them (*Quor. unus*) may assess a Fine, as well as upon a Verdict of twelve Men; but in this case the Delinquent shall be admitted to his Traverse, as in other Cases, 5 *El. c.*1[illegible] *vide Rastal.* 199.

The Defaults and Offences upon these Statutes 2 & 3 *P.* & *M.* 5 *El.* & 18 *El.* are inquirable by the Justices of Peace in their Sessions, or by Stewards in Leets, either of which have power to set Fines upon Offenders at their discretions; of which Fines, indented Estreats (in the Sessions under the Hand and Seal of the

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Clerk of the Peace, in the Leet, under the Hand and Seal of the Steward) ſhall be deſivered within ſix weeks after *Michaelmas*, one part of the Eſtreat to the Bailiff or High Conſtable of the Liberty, and the other part to the Conſtables and Churchwardens of the Pariſh where the Offenders live, 2 & 3 *P.* & *M. c.*8. 5 *El. c.*13. 18 *El. c.*10. *Wingates Abr. Stat. Tit. High-ways.*

And theſe Eſtreats ſhall be a ſufficient Warrant for the Bailiff, or Chief Conſtable of the Liberty to levy the ſaid Offences by way of Diſtreſs; and if no Diſtreſs can be found, or the Party do not pay the Fine within 20 days after lawful demand thereof, he or they ſhall forfeit double ſo much; all which Fines and Forfeitures are to be employed, and beſtowed towards the amendment of the High-ways in the Pariſh where the Offences are committed, *Wingates Abr. Stat. Tit. High-ways*, 2 & 3 *P.* & *M. c.*8.

The Bailiff, or High Conſtable, ſhall yearly betwixt the firſt of *March*, and laſt of *April*, render an Account unto the Conſtables and Churchwardens, who have the other parts of the Eſtreats of the Fines, of what Mony they have received, on pain of 40 *s.* and the ſaid Conſtables and Churchwardens have power to call the Bailiff or High Conſtable before two or more Juſtices of the Peace (*Quor. unus*) to paſs his Account, who have power to commit him, until he have ſatisfied all the Arrearages by him received, ſave 8 *d.* in the pound for his own Fee, and 12 *d.* in the pound for the Clerk of the Peace, or Steward of the Leet, and in this caſe the ſucceeding Conſtables and Churchwardens have the ſame power as their Predeceſſors had, 2 & 3 *P.* & *M. c.*8.

Two Juſtices of the Peace by the Stat. 18 *El.* may take Accounts of the Surveyors of the Ways, and the Petty Conſtables and Church-wardens, for ſuch Forfeitures (within that Statute) as they have levied, 18 *El. c.*10 *Dalt. J.P. c.*50. *f.*103.

Note, There are ſeveral Statutes which concern particular High-ways, in which theſe Surveyors are little concerned; I ſhall therefore only name the Statutes, and they who deſire to be further informed therein, may look the Statutes at large.

Stat. 39 *El. c.*10. for repairing the High-ways in the Wild of *Suſſex*, *Surry* and *Kent*, uſed for Iron Works. Stat. 37 *H* 8. *c.*3. For *Huntington Lane* near to *Cheſter*. Stat. 14 *H* 8. *c.*6. & 26 *H.*8. *c.*7. For laying out new High-ways in the Wild of *Kent* or *Suſſex*. Stat. 1 *P.* & *M.* 2. *c.* 5. for the Cauſway between *Dorcheſter* and *Sherborn*. Stat. 18 *El. c.*10. about the Kings Ferry in *Kent*.

CHAP. IV.

Some Heads of the Stat. 22 & 23 Car. 2. c. 17. *concerning the Ways, Sewers, Pavements, &c. in* London, *and the Scavengers Office.*

BY the Stat. of 22 & 23 *Car.* 2. A Clauſe in a late Act of Parliament, Entituled, *An Act for Rebuilding the City of* London; wherein was Enacted, That the Numbers and Places for Common Sewers, Drains and Vaults, and the manner of Paving and Pitching Streets and Lanes in the ſaid City and Liberties, ſhould be ſet out by Perſons appointed by the Mayor, Aldermen and

and Common Council, or ſeven or more of them, together with the Surveyors, or one of them within the Precincts reſpectively, which Perſons, or ſeven, or more of them were impowred to impoſe Taxes upon Houſes in proportion to the benefit they receive thereby, and to levy the ſame by Diſtreſs and Sale of Goods, is made perpetual, together with the Powers thereby given and appointed to be executed: And the ſole Powers of ordering and regulating the keeping clear, pitching and paving the Streets, Lanes and Paſſages, with the manner thereof, and of making and cleanſing Drains and Sewers in *London*, is to remain in the Mayor, Commonalty, and Citizens, to be executed by ſuch as the Mayor, Aldermen and Commons in Common Council ſhall appoint, or ſeven or more of them being all Members of the ſaid Court. And Perſons imployed in any of the ſaid Works, are enjoyned to obſerve the Directions of the Perſons in that behalf authorized, 22 & 23 *Car.* 2. *c.* 17.

Offenders may be proceeded againſt by Indictment at the next Seſſions of the Peace, in the ſaid City and Liberties, unleſs they ſubmitted to the Cenſure of the Perſons ſo authorized, or any ſeven or more of them, and pay the Mulct by them impoſed to the Chamber of *London*, to be imployed towards the Works in this Act mentioned, 22 & 23 *Car.* 2. *c.* 17.

The Perſons ſo authorized may impoſe Taxes on the ſeveral Wards and Precincts, and direct Precepts to the reſpective Deputies and Common Council Men to aſſeſs the ſame, and like Precepts to Scavengers to collect the ſame: And

where any Church or Churchyard ſhall front or adjoyn to any of the ſaid Streets, Lanes or Paſſages, they may aſſeſs a reaſonable proportion upon the Pariſh to be paid by the Churchwardens, of which Aſſeſsments the Deputies and Common Council Men ſhall return Duplicates with the Scavengers Names, within twenty days after receipt of the Precepts. And in default of the ſaid Deputies, and Common Council Men the ſaid Perſons to be authorized may rate the ſaid Aſſeſsments. And in default of payment within ſix days after demand, the Scavengers may levy the ſame by diſtreſs and ſale of Goods, rendring the overplus, beſides the reaſonable Charge of diſtraining: And the Mony ſo collected ſhall be paid into the Chamber of *London*, not to be iſſued thence, but by order of the ſaid Perſons ſo to be appointed, or ſeven or more of them, 22 & 23 *Car.*2. *c.*17.

Inhabitants aggrieved through defect or decay of Pavements, or want of cleanſing the Streets, *&c.* ſhall upon proof that ſuch grievance is unreformed, receive directions from the Perſons ſo to be authorized, or ſeven or more of them, for redreſſing the ſame, and a Warrant under their Hands and Seals to the Chamberlain of *London* to iſſue Monies for defraying the Charge thereof, together with any Sum not exceeding ten ſhillings for encouragement of his or their Diligence, who upon receipt of ſuch Warrant ſhall pay the ſame accordingly: And Perſons aggrieved by any Charge impoſed by virtue of this Act, within five days after demand thereof, may appeal to the Mayor and Court of Aldermen, whoſe Order therein ſhall be final, 22 & 23 *Car.*2. *c.*17.

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The Mayor, Aldermen and Commons in Common Council may ſet out and purchaſe Ground for Layſtals, and places for publick Stores, for receipt of Dirt and Rubbiſh carried out of the City, and for other Materials and Commodities. The Mony for the ſame to be paid out of the Monies ariſing by the Impoſition upon Coals appointed for publick Uſes of the City, other than the Mony appointed for Building Churches, 22 & 23 *Car.* 2. *c.* 17.

No Perſons by this Act made liable to be rated towards the altering, mending, or cleanſing the ſaid Vaults, Sewers, *&c.* or cleanſing, *&c.* Streets, Lanes, *&c.* ſhall be otherwiſe charged or liable thereunto, 22 & 23 *Car.* 2. *c.* 17.

CHAP. V.

Some Heads of the 2 *of* W. *and* M. *for Paving and Cleanſing the Streets in the Cities of* London *and* Weſtminſter, *Suburbs and Liberties thereof, the Out-Pariſhes in the County of* Middleſex, *the Borough of* Southwark, *and other Places within the Weekly Bills of Mortality, in the County of* Surrey.

EVery Inhabitant inhabiting in the ſaid Pariſhes, and in the Town of *Kenſington*, ſhall twice every Week ſweep before their Houſes and Buildings, and take up the Dirt ready for the Scavenger, or other Officer, or elſe for every Offence or Neglect, forfeit 3 *s.* 4 *d.*

If any throw, or permit to be thrown, Ashes, Filth, or Annoyance before his House, Building or Wall, shall forfeit 5 *s.* If before any Church, Church-yard, or publick Buildings, or into any Sink, or Way, publick or private; but shall keep it in their Houses and Yards, until the Officers come to carry it away, or else forfeit 20 *s.*

Churchwardens, House-keepers of *white-hall*, or other the Kings Houses, or of Noblemens Houses, shall be subject to like Penalty; so shall Ushers of Courts, and Porters, and Keepers of other publick Buildings.

Scavengers and Officers shall come every day (except Sundays and Holidays) and give notice that the Parties concerned may bring out their Dust, *&c.* or forfeit 40 *s.* for every neglect.

Every Housholder shall pave, and keep repaired the Streets before their Houses and Ground unto the Channel, or else forfeit for every Rod 20 *s.* and 20 *s.* every Week until it shall be sufficiently repaired.

Where new Streets and Ways are made, which the Justices of Peace in their General Quarter-Sessions shall think fit and convenient to be paved with Stone or Gravel, and shall order the same to be done before every dwelling House or Building in such Street or Way; Every Person neglecting, shall forfeit forty shillings for every such Offence, for every Perch, and after that rate, for a greater or lesser quantity, and the like Sum for every Week till the same be paved and amended.

Where Streets, Lanes or Allies have been by Custom otherwise repaired, it shall be done

by

by such Persons as are by Custom to do it, under the Penalties aforesaid.

Upon *Monday* or *Tuesday* in *Easter* Week, The Constables, Churchwardens, Overseers and Surveyors giving notice, and calling such Inhabitants that have served that Office, shall chuse two Tradesmen to be Scavengers; who being allowed under the Hand of any two Justices, shall within seven days take the Office, or pay 10 *l.* and within seven days after such refusal, they shall in like manner chuse another, who shall accept, or pay 10 *l.* which Penalties to be levied by Distress and Sale, and for want of Distress or Payment within six days after notice at his House, to be sent to the Goal until payment. Within twenty days after such Election, the Constables, *&c.* shall call such Inhabitants as have born the like Office, and make a Tax by a Pound Rate, which being confirmed by two Justices, shall be quarterly paid upon demand made by the Scavengers, or other Officers appointed to gather the same, and being refused, shall by Warrant of two Justices be levied by Distress and Sale, and for want of Distress, by Imprisonment of the Offender until payment. The Scavengers are to account for the Mony by them Collected, to two Justices of the Peace, within twenty eight days after new Scavengers are Elected, and to pay what Mony remains in their Hands to the new Scavengers.

The Scavengers and Rakers for any of the said Parishes shall have liberty, by the Order of the Justices in the Petty-Sessions, or any two of them, to lodge their Soil in such vacant places near the Streets or High-ways, as shall be thought convenient by the said Justices,

for

for the accommodation of the Country Carts returning empty from the said Parishes, they giving satisfaction to the Owners of such vacant places, and in case of unreasonable Demands, the Justices in their Petty Sessions may hear and moderate the same. If any Persons find themselves aggrieved with the Rates made by virtue of this Act, or any ways prejudiced by the determination of the Justices in their Petty-Sessions, they may have recourse to the Justices at their General Quarter Sessions of the Peace.

And whereas there are many Common Highways within the said Parishes, which cannot be sufficiently repaired by means of the Laws now in force, an Assessment may be made upon all the Inhabitants, Owners and Occupiers of Lands and Houses, or personal Estate usually ratable to the Poor within any of the said Parishes, to be collected by such Persons as the Justices shall appoint at their General Quarter-Sessions, the Mony so collected, to be employed as the Justices shall direct towards repairing the said High-ways.

No such Rate shall exceed four pence in the Pound, in any one year, in the yearly value of Lands, Houses or Tenements, nor of eight pence for every twenty pounds in personal Estate.

No Person or Persons whatsoever, shall suffer his Waggon, Cart or Car to stand in the *Haymarket* near *Pickadilly* in the Parish of St. *Martin* in the Fields, St. *James* within the Liberty of *Westminster*, Borough of *Southwark*, or any other place in the Parishes within the Weekly Bills of Mortality, loaden with Hay or Straw, to sell the same from *Michaelmas* to *Lady-day*, after two of the Clock in the Afternoon, and from

from *Lady-day* to *Michaelmas*, after one in the Afternoon, on pain to forfeit five ſhillings for every Offence and Neglect.

The Owners and Proprietors of any Cart, Car or Dray, the Wheels whereof ſhall not be made ſix Inches in the breadth, or ſhall be ſhod with Iron, or be drawn with above two Horſes, ſhall forfeit forty ſhillings for every time ſuch Cart, Car or Dray ſhall be uſed, for the uſes, and to be levied as aforeſaid: This ſhall not extend to any Country Cart or Waggon that ſhall bring any Goods to the Cities or Places aforeſaid, or ſhall carry any Goods half a Mile beyond the paved Streets of the ſaid Cities and Places.

One Juſtice of Peace upon View or Confeſſion, or Oath of one Witneſs, may convict any of the Offences aforeſaid, if Conviction be upon proof, one Moiety to the Overſeers of the Poor, for the Relief of the Poor of the Place where the Offence was committed, the other Moiety to him that ſhall diſcover and proſecute the ſame. But if the Conviction ſhall be by the View, then one half to the Poor, the other towards repairing and cleanſing the Streets, to be paid to the Scavengers of the Place, to be levied by the Juſtices Warrant under Hand and Seal, to the Conſtable, by Diſtreſs and Sale, or for want of Diſtreſs or Payment within ſix days after notice at the Houſe, to be ſent to Goal without Bail, until payment.

No Perſon (within the Cities of *London* and *Weſtminſter*, and Liberties of the ſame, Borough of *Southwark*, and Pariſhes aforeſaid) ſhall breed, feed or keep any Swine in any Houſes or Backſides of the paved Streets where the Houſes

Houſes are contiguous, on pain to forfeit the ſame to the Churchwardens and Overſeers of the Poor of the Pariſh where ſuch Swine ſhall be kept, to the uſe of the Poor.

The Churchwardens, Chappel-wardens, Overſeers of the Poor, Conſtables, Beadles, Headboroughs or Tythingmen of any the Pariſhes in the ſaid Cities and Places reſpectively, in the day-time, with a Warrant under the Hand and Seal of the Lord Mayor, or any other of their Majeſties Juſtices of the Peace, may ſearch for ſuch Swine, and if any be found, they may ſeize and carry them away, and ſell them for the beſt price that can be had, and diſtribute the Mony to the Poor of the Pariſh where they were ſeized.

CHAP. VI.

Several Caſes about the Repairs of Bridges, with the Names of the Statutes which concern particular Bridges.

WHere a Common Bridge in the Kings High-way is in decay, and that it cannot be proved or known, who, nor what Lands are chargeable to the repairing thereof; in this caſe four Juſtices of the Peace (whereof one to be of the *Quorum*) within the Shire or Riding wherein ſuch decayed Bridges be; and if they be in a City, or Town Corporate, then four ſuch Juſtices of Peace there, may within the Limits of their ſeveral Commiſſions, call before them the Conſtables, or two of the moſt honeſt Inhabitants of every Town and Pariſh within

the

the Shire, Riding, City or Town Corporate, wherein ſuch Bridge, or any parcel thereof ſhall happen to be; and the Juſtices (upon the appearance of the Conſtables, or other Inhabitants, and with their Aſſents) may Tax every Inhabitant in any ſuch City, Town or Pariſh within their Limits, to ſuch reaſonable Sum of Mony as by their Diſcretions they ſhall think convenient, as well for the repairing of ſuch Bridge, and alſo for the making and repairing of the High-ways by the ſpace of 300 Foot next adjoyning to the Ends of any ſuch Bridges, 22 *H.*8. *c.*5. *Dalt. J.P. c.*16. *f.*44. *Co.* 2 *part, Inſt.* *f.*701,702.

But Note, Where the Franchiſe, City or Borough is a County of it ſelf, and hath not four or more Juſtices of the Peace, whereof one or more are of the *Quorum*, in this caſe no other Juſtices of the Peace, of any Shire or County, have any power to meddle there by this Act, but ſuch decay muſt be reformed by the Common Law, by ſuch Remedy as they were before the making of the Statute of 22 *H.*8. *Co.* 2 *part, Inſt. f.*702.

And note, That this Taxation ought not to be made by the Juſtices, without the Conſent of the Conſtables or Inhabitants, nor by them without the Juſtices; and this Tax ought to be upon every Inhabitant in particular, and not to be ſet upon the Hundred, Pariſh, Town, *&c.* for then one or two might be diſtrained upon for the whole, *Co.* 2 *part, Inſt. f.*704.

After ſuch Taxation made, as aforeſaid, the ſaid Juſtices of Peace ſhall cauſe the Names and Sums of every particular Perſon ſo by them taxed, to be written in a Roll indented in Parch-

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ment for every Hundred, and ſealed with their Seals, *Co. 2 part, Inſt. fol. 704. Dalt. J.P. c. 16. ibid.*

And the ſaid Juſtices may make two Collectors of every Hundred, for the Collecting of all ſuch Sums of Mony by the ſaid Juſtices ſet and taxed, which Collectors receiving the one part of the Roll indented, have power thereby to collect all the Sums of Mony therein contained, and if refuſal be made upon demand, then to diſtrain, and ſell ſuch Diſtreſs, rendring the overplus to the Owner, if any be, *Dalt. J.P. c. 16. f. ibid. 22 H. 8. c. 5. Co. 2 part, Inſt f. 705.*

The ſaid Juſtices alſo are to appoint two Surveyors, who ſhall ſee ſuch decayed Bridges and Ways repaired and amended from time to time as often as need ſhall require, to whoſe Hands the Collectors muſt pay the Monies by them received, *Dalt. J.P. c. 16. ibid. 22 H. 8. c. 5.*

And the ſaid Collectors and Surveyors, and their Executors and Adminiſtrators, and every of them ſhall from time to time make a true Account to the ſaid Juſtices of Peace, of the Receipts, Payments and Expences of the ſaid Sums of Mony, and if any of them refuſe ſo to do, then the Juſtices of Peace from time to time, by their Diſcretions, may make out Proceſs againſt the ſaid Collectors and Surveyors, their Executors and Adminiſtrators by Attachment, Precept or Warrant under their Hands and Seals returnable at their General Seſſions of the Peace, and the ſaid Juſtices may allow ſuch reaſonable Coſts and Charge to the Surveyors and Collectors upon their Accounts, as to them ſhall ſeem convenient, 22. *H. 8. c. 5. Dalt. J. P. c. 16. ibid.*

If

If any ſuch Bridge be wholly in a City, or other Corporate Town, the Inhabitants of the ſaid City or Corporate Town muſt repair it; and where ſuch Bridges lie out of ſuch City or Corporate Town, the ſame muſt be made by the Inhabitants of the Shire or Riding within which the ſame Bridge ſhall be, and if part of the Bridge be in one Shire or Riding, City or Corporate Town, and part in another, then every of them ſhall be charged to make and repair ſuch part as ſhall lie, and be within their own Limits, 22 *H.*8. *c.*5. *Co.* 2 *part*, *Inſt. fol.*207. *Dalt. J.P. c.*16. *fol.*45.

But otherwiſe no Village or Freeman ſhall be compelled to make any Bridge; but ſuch as of old time, and by right they were wont to make, *Magna Charta*, *c.*15.

By the Common Law, ſome Perſons were bound to repair Bridges, *Ratione tenuræ ſuæ Terrarum*, &c. and this was binding, into whoſe Hands ſoever the Eſtate did come; but they which have Lands on the one ſide, or on the other, or on both, are not bound in Common right to repair the ſame, 44 *El.* 3.31. 21 *E.* 4. 6. 5 *H.*7. 3. *Crompt.* 186. 8 *H.*7. 5.*b. Co.* 2 *part*, *Inſt. f.* 700.

If a Man which holdeth 100 Acres of Land, ought to repair a Bridge by tenure of the ſame, and alien 20 Acres thereof to one Man, and 10 Acres to another Man, in ſuch caſe every Owner and Occupier of ſuch Lands muſt be charged proportionably for their ſaid Lands, *Regiſt.* 268.*a. F.N.B.* 235.*b. Co.* 2 *part*, *Inſt. f.*700.

Again, Some by the Common Law were bound by preſcription to repair a Bridge; but herein there is a diverſity between Bodies Politick or

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Corporate, Spiritual or Temporal, and Natural Persons: For Bodies Politick, *&c.* may be bound by usage and prescription only, because they are local, and have a perpetual Succession, and never die; but a Natural Person cannot be bound by the Act of his Ancestor, without Assets, or some Profit to be taken therefore, 21 *E.* 4. *fol.* 38. *b.* 27 *Ass.* 8. *Crompt.* 187. *Co.* 2 *part*, *f.* 700. *Dalt. J. P. c.* 16. *f* 45.

By Common Right, Bridges are to be amended by the whole County, if it be not known who ought to do the same otherwise, *Pasch.* 19 *E.* 3. 28, 29. *Co.* 2 *part*, *Inst. f.* 701. *Crompt.* 186. *b. Tr.* 10 *Car.* 1. the Case of *Longford* Bridge, *Rolls Case* 1 *part*, *f.* 368. & *Cro. Rep.* 3 *part*, the same Case.

If a Man erect a Mill for his own particular Profit, and cut a new Course for the Water to come to it, and makes a new Bridge over the same, and the Kings Subjects use to ride over the same as over a common Bridge; such Bridge ought to be repaired by him who hath the Mill, and not by the County, because he erected it for his own Benefit, 8 *E.* 2. *B. R.* adjudged for *Bow* Bridge and *Channel* Bridge against the Prior of *Stratford*, *Rolls Cases*, 1 *part*, *f.* 368.

Such as are chargeable to repair a Bridge, may enter upon any other Mans Land or Soil adjoyning, and lay their Stone, Lime, Timber or other Things necessary there, for the repairing and amending thereof, and the Owner of the Lands shall have no Action therefore; for it is for the common Profit; and the Party that is chargeable to repair a Bridge, must also maintain the Way at each end thereof (though the Soil be to another) and if the ends be broke

by the Water-courſe, he muſt follow the Water-courſe, and repair the Way, &c. *Crompt.* 186.*b.* 43 *Aſſ. Dalt. J.P. c.*16.*f.*46.

The Names of ſome Statutes for particular Bridges follow, 8 *H.*6. *c.*28. For the making of *Burford* and *Culhamford* Bridge. 18 *E.* 1. *c.*7. & 27 *E. c.* 25. For the maintenance of *Rocheſter* Bridge. 18 *El. c.* 20. For repair of the Bridges within a Mile of *Oxford.* 23 *El. c.* 11. For the maintenance of the Bridges over *Toſſe* in *Wales.* 39 *El. c.*23. For making and repairing of *Newport* and *Carlion* Bridges over the River *Uſk.* 39 *El. c.*24. For building and maintenance of a Bridge at *Wilton* upon *Wy*, near *Roſs*, in *Herefordſhire.* 43 *El. c.* 16. For erecting and repairing *Edon* and *Presberk* Bridges in *Cumberland.* 3 *Jac. c.*23. For making and repairing *Chepſtow* Bridge.

By the Stat. 22 *Car.* 2 *c.* 12. It is Enacted, That the Surveyors and Orderers of the Work, of amendment of the High-ways, ſhall be yearly choſen in Chriſtmas Week, according to the Stat. 2 & 3 *P.* & *M. c.* 8. Which Perſons ſo choſen, ſhall take upon them that Office, and ſhall appoint ſix days for providing Stones, Gravel, and other Materials, and for working in the High-ways, having reſpect to the Seaſon of the Year and Weather, and giving notice publickly ſome convenient time before the ſeveral days. At which day all Perſons liable to the ſaid Work, ſhall attend and work: And the ſaid Surveyors and Orderers ſhall make return of the Defaulters, and every of them within one Month, to ſome neighbouring Juſtice of the Peace of the ſame County.

DIRECTIONS

DIRECTIONS *for the Keepers of Fairs and Markets.*

FAirs are accounted things of Franchiſe and Priviledge, as well as of Profit; and whether they be held and claimed by Charter of the King, or by Preſcription, which ſuppoſes a former Charter, they ought to be holden for no longer time, than ſuch Grant or Uſe will warrant: And after ſuch time, what is done there, is not warranted or juſtifiable, nor amounts to more than a private Tranſaction; and the Sheriff ought to make Proclamation, That thoſe that have Fairs keep them no longer then they ought to do; and every Lord of a Fair, ſhall at the beginning thereof, make Proclamation how long the ſame is to continue, upon pain to be grievouſly amerced to the King; And if they hold them longer than they ought, they ſhall be ſeiſed into the Kings Hands, until they make Fine for the Offence; and if a Merchant ſell Ware after the time the Fair ought to end, he ſhall forfeit to the King double the value of what is ſold, and the Proſecutor ſhall have the fourth part, *Dalt. J. P. c.62. f.138.*

The Owner, or Chief Keeper of every Fair and Market-over, are to appoint and limit out a certain and open place within the Town, Place, Field or Circuit where Horſes, Mares, Geldings and Colts muſt be ſold, and they muſt appoint one ſufficient Perſon, or more, to take Toll, and keep the ſame place from ten

of

of the Clock before Noon, until Sun-ſet of every day of the foreſaid Fair or Market, upon pain to loſe for every Default 40 ſhillings, 2 & 3 *P. & M. c.7. Co. 2 part, Inſt. f.715.*

The Toll-gatherer, his Deputy or Deputies are to take their due and lawful Tolls for every Horſe, Mare, *&c.* at the place and times aforeſaid; and they are to have before them at the taking of the ſaid Toll, the Parties, to the Bargain, Exchange, Gift, Contract, or putting away of every ſuch Horſe, Mare, *&c.* and alſo the ſame Horſe, Mare, *&c.* ſo ſold, exchanged, or put away, and then the Toll-gatherer muſt write in his Book the Names, Sirnames, and dwelling Places of all the ſaid Parties, and the Colour, with one ſpecial Mark at the leaſt of the ſaid Horſe, Mare, *&c.* on pain to forfeit for every Default 40 ſhillings, 2 & 3 *P. & M. c.7. Co. 2 part, Inſt. f.715.*

And the ſaid Toll gatherer is within one day after the Fair, *&c.* to bring his Book to the Owner, Governour or Ruler, *&c.* of the Fair or Market, who is then to cauſe a Note to be made out of the ſame; of the true number of all the Horſes, Mares, *&c.* ſold at the ſaid Fair or Market, to which Note he muſt ſet his Hand or Mark, on pain of 40 ſhillings: And if the Toll-gatherer neglect to bring the Book, as aforeſaid, he alſo forfeits 40 ſhillings, 2 & 3 *P. & M. c.7. Co. 2 part, Inſt. f.715.*

Where no Toll is due, the Book-keepers Fee for entring every Contract, is one penny and no more, 2 & 3 *P. & M. c.7. Co. 2 part, Inſt. f.716.*

Now ſince the making of this Stat. 2 & 3 *P. & M.* It is further provided by the 31 *Eliz.* That every

every Seller or Exchanger of any Horſe, Mare, *&c.* in a Fair or Market, which is unknown to the Toll-taker or Book-keeper muſt procure one credible Perſon that is well known to the Toll-keeper, or Book-keeper, who is to vouch and teſtifie his Knowledge of the Seller, and the Toll-taker, or Book keeper, is to enter both the Names and Sirnames, Myſteries, and Places of Dwelling of the Seller and Voucher into his Book, with the Colour, Mark and Price of the Horſe, Mare, *&c.* ſo ſold or exchanged; and he is to give the Buyer, if he require it, a Note in writing out of his Book, concerning the Contract ſubſcribed with his Hand, for which he is to have two pence, 31 *El. c.*12. *Co.*2 *part, Inſt. f.* 717, 718.

Every Toll-taker or Book-keeper that ſuffers a Sale to paſs without a Voucher, unleſs he know the Party of his own Knowledge, as aforeſaid, and every Perſon making falſe Teſtimony or Avouchment in the behalf aforeſaid, and every Seller unknown to the Toll-taker, not bringing a Voucher, and cauſing the ſame to be entred as aforeſaid, forfeits five pounds, one Moiety thereof to the King, and the other to the Proſecutor; and alſo the ſale of ſuch Horſe, Mare, *&c.* to be void, 31 *El. c.* 12. *Co.* 2 *part, Inſt. f.* 718.

And note, That though an Horſe, Mare, *&c.* be at the ſale uſed in all the Points aforeſaid, with Voucher, *&c.* yet the right Owner, his Executors or Adminiſtrators, may redeem a ſtoln Horſe, if they claim him within ſix months after the ſtealing, at the Pariſh or Corporation where they ſhall find him and make proof within 40 days after, by two ſufficient Witneſſes, be-

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fore the next Juſtice of Peace of the County, or before the Head Officer in a Corporation, that the Horſe was theirs, and repay to the Buyer ſuch price for the Horſe, as the ſame Buyer ſhall upon his own Oath before ſuch Juſtice or Officer, teſtifie he paid for him, 31 *El. c.* 12. *Wingates Stat. Tit. Fairs and Markets, Co.* 2 *part, Inſt. f.*718.

If a ſtoln Horſe be not ſold in Fair or Market, according to the Rules aforeſaid, then ſuch Sale does not alter the Property of the right Owner, but he may ſeize or replevy him whereſoever he finds him, 31 *El. c. Wingate ubi ſupra, Co.* 2 *part, Inſt. f.*718.

No Perſon ſhall buy any Oxen, Ronts, Steers, Kine, Heifers, Calves, Sheep, Lambs, Goats or Kids alive, and ſell the ſame again, unleſs he keep the ſame five Weeks in his own Grounds; or where he hath Herbage by Grant or Preſcription, upon pain to loſe double the value of the Cattle; one Moiety to the King, the other to the Informer, 5 *Ed.*6. *c.*14.

By the Stat. 22 *Car.*2. *c.*8. There ſhall be no Buſhel but the *Wincheſter* Buſhel, containing eight Gallons, and none ſhall ſell by other Meaſure, on pain of 40 ſhillings.

If the Clerk of the Market of the Kings Houſe, or others authorized to mark or ſeal Meaſures, being required, ſhall neglect or refuſe to ſeal or mark any Buſhel, Half Buſhel, or Peck duly gauged, he forfeits 5 *l.* for the firſt Offence, and for every other Offence 10 *l.* or if the Kings Clerk of the Market of his Houſe take more than his Fees, or if any other take above one peny for ſealing a Buſhel, one half peny for the Half Buſhel or Peck, or more than one farthing for

any

any leſſer Meaſure, he incurs the Penalties in the Stat. 17 *Car.* 1.

That at the charge of ſuch Perſons who have the Toll, or profit of the Market where no Toll is taken, there ſhall be before 29 *Sept.* 1670. one Meaſure of Braſs provided and chained in the Market-place, upon pain to forfeit 5 *l.* 22 *Car.* 2. *c.* 8.

By the Stat. of 22 & 23 *Car* 2. It is further provided, That whoſoever ſhall ſell or buy any Corn or Salt by the Bag, or without meaſuring being thereunto required, or in any other manner than as by the Stat. 22 *Car.* 2. *c.* 8. is directed, and without ſhaking the Meaſure by the Buyer, ſhall forfeit beſides the Penalty in the former Act, all the Corn or Salt, or the value therefore to the Perſon or Perſons complaining. 22 & 23 *Car.* 2. *c.* 12.

Upon complaint to one or more Juſtices of Peace, the Proof ſhall lie upon the Defendant, to make appear by Oath of one or more Witneſſes that he or they did ſell or buy according to this and the ſaid former Act; wherein if he fail, he ſhall forfeit as by this Act is directed, to be levied by diſtreſs and ſale of Goods, by Warrant under the Hand and Seal of one or more Juſtices before whom ſuch Conviction ſhall be. The Penalties to be diſtributed, one half to the Poor of the Pariſh where the Offence ſhall be committed, the other to the Informer, 22 & 23 *Car.* 2. *c.* 12.

DIRECTION

DIRECTIONS *to Treasurers, for the Relief of Poor Maimed Soldiers and Mariners.*

THE Justices of Peace are yearly at the Quarter Sessions, about *Easter*, to choose or appoint one or two Persons (according to their discretions) of the County, for the taking and distributing of the Monies collected for the Relief of poor maimed Soldiers and Mariners: and these Treasurers, by the Words of the Statute, ought to be Subsidy Men of 10 pounds in Lands, or 15 pounds in Goods, and these Officers are to continue in their Office one Year, and new ones then to be chosen in their rooms, 43 *El c.* 3. *Wingates Stat. Tit. Captains.*

Now for the raising of Mony for these Treasurers, the greater part of the Justices in their Quarter Sessions, have power to charge every Parish within their Limits, towards a Weekly Relief of maimed Soldiers and Mariners, so that no Parish pay Weekly above 10 pence, nor under 2 pence; nor any County, which consists of above 50 Parishes, pay above 6 pence, one Parish with another, 43 *El. c.* 3.

When the Tax is levied, the Constables and Churchwardens are to deliver it quarterly (ten days before every Quarter Sessions) to the High Constables of their Division, who must deliver to the Treasurers of the County, at the same Quarter Sessions all the same Mony; and if the Constables or Churchwardens, their Executors, &c. fail in the payment, to the High Constable,

ble, within the time aforesaid, then they are to forfeit 20 *s.* and if the High Constable fail to pay the Treasurers every Sessions, then he forfeits 40 *s.* which Forfeitures, as it seems, the Treasurers may levy by Distress and Sale of the Offenders Goods, without any Warrant, rendring the overplus to the Owner: And these Forfeitures are to go in Augmentation of the Treasurers Stock, 43 *El. c.*3.

The maimed Soldier or Mariner which was Prest, shall repair (if he be able to Travel) to the Treasurers of the County where he was Prest; if he were not Prest, then to the Treasurers of the County where he was Born, or were he last dwelt by the space of three years, at his Election; but if he be not able to Travel, then to the Treasurers of the County where he Lands; and he is to bring with him a Certificate under the Hand and Seal of the Chief Commander, or of the Captain under whom he served, containing the particular of his Hurt and Service, which Certificate shall also be allowed by the Muster-Master, or the Receiver General of the Rolls for the Muster, under one of their Hands, 33 *El. c.*3.

Then upon such a Certificate, the Treasurer aforesaid may allow the Party Relief to maintain him till the next Quarter Sessions; and then the major-part of the Justices may allow him a Pension, which the Treasurers must pay him quarterly, until it shall be revoked or altered by the said Justices; and this Allowance is not to exceed 10 *l. per annum* to a Common Soldier, nor 15 *l.* to an Officer under a Lieutenant, nor 20 *l.* to a Lieutenant, 43 *El. c.* 3. *Wingates Stat. Tit. Captains and Soldiers.*

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Where Soldiers and Mariners arrive far from the place where they are to receive Relief, the Treasurers there shall give them Relief, and a Testimonial whereby they may pass from Treasurer to Treasurer, until they shall come to the place required; and this shall be done upon the bare Certificate of the Commander and Captain, although they have not as yet obtain'd any Allowance from the Muster-Master, or Receiver-General of the Muster-Rolls, *Wingates Stat. Tit. Captains and Soldiers*, 43 *El. c.* 3.

If any Soldier or Mariner beg, or counterfeit a Certificate, he shall be punished as a Common Rogue, and shall lose his Pension, if he have any. 43 *El. c.* 3. *Wingate, ut supra.*

When out of the County where the Party was Prest, a fit Pension cannot be satisfied, it shall then be supplied by the County where he was born, or else where he last dwelt by the space of three years, *Wingate, ubi supra*, 43 *El. c.* 3.

The Treasurers are to Register all their Receipts and Disbursements, and must enter the Names of the Parties relieved into their Book, and also the Certificate, by virtue whereof the Disbursements are made; and where they disallow of a Certificate, they are to set down the Reasons of their Refusal under the Certificate, or on the back thereof, 43 *El. c.* 3. *Wingate Stat. Tit. Captains and Soldiers.*

If any Treasurer wilfully refuse to give Relief in the Cases aforesaid, the Justices of the Peace, in their Sessions, may set a Fine upon him, which may be levied by Distress and Sale of his Goods, *Wingate, ubi supra.*

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These Officers at the end of their Year, with
in 10 days after *Easter* Sessions, are to give
a just Account to the succeeding Treasurers
all their Receipts and Disbursements within
time of their Office; and then if they have
any Mony in their Hands, they are to deliver
it to their Successors; and if any such Officer
his Executors or Administrators shall not giv
up such Account within the time aforesaid, o
shall be otherwise negligent in the Executio
of his Office; The Justices at the Sessions ma
assess what Fine they please upon him; so tha
it be not under five pounds, but what the
please above five pounds upon him, his Exe
cutors or Administrators, *Wingate, ubi sup.*
43 *El. c.* 3.

In Corporations, the Justices there are t
put this Act in Execution, and not the Ju
stices of the County: This Act is not to pr
hibit the City of *London* to make a Tax if nec
require, differing from that above limited i
this Act, so that no Parish pay above thre
shillings Weekly, nor under twelve pen
Weekly, one Parish with another, 43 *El. c.* 3.

FINIS.